





ROYAL COMMISSION OF INQUIRY INTO CERTAIN DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND RELATED MATTERS.

Hearing held 8th floor 180 Dundas Street West Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

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Administrator

Transcript of evidence for

April 25, 1984

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1 ROYAL COMMISSION OF INQUIRY INTO CERTAIN DEATHS AT THE HOSPITAL FOR SICK CHILDREN 2 AND RELATED MATTERS. 3 4 Hearing held on the 8th Floor, 180 Dundas Street West, Toronto, 5 Ontario, on Wednesday, the 25th day of April, 1984. 6 7 8 THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner 9 THOMAS MILLAR - Administrator 10 MURRAY R. ELLIOT - Registrar 11 12 13 APPEARANCES: 14 P.S.A. LAMEK, Q.C.) Commission Counsel E. CRONK 15 D. HUNT Counsel for the Attorney General and Solicitor General L. CECCHETTO) 16 of Ontario (Crown Attorneys and Coroner's Office) 17 I.J. ROLAND) Counsel for The Hospital for M. THOMSON ) 18 Sick Children R. BATTY 19 Counsel for The Metropolitan B. PERCIVAL, Q.C.) Toronto Police 20 D. YOUNG Counsel for numerous doctors W.N. ORTVED 21 at The Hospital for Sick Children 22 Counsel for the Registered B. SYMES Nurses' Association of Ontario 23 and 35 Registered Nurses at The Hospital for Sick Children 24 (Cont'd) ...





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1	APPEARANCES:	(Continued)
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14		deceased child kevih Pacsal)
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INDEX OF WITNESSES NAME Page No. TRAYNER, Phyllis; Resumed Cross-Examination by Mr. Hunt (Cont'd) Cross-Examination by Mr. Percival INDEX OF EXHIBITS Description Page No. No. Phyllis Trayner's notes dated March 25th, 1981. 

BM/ak

--- Upon commencing at 10:00 a.m.

THE COMMISSIONER: Yes, Mr. Hunt.

PHYLLIS TRAYNER, Resumed

CROSS-EXAMINATION BY MR. HUNT: (Continued)

MR. HUNT: Thank you.

Q. Mrs. Trayner, just before we go on I want to go back to the one matter that we dealt with yesterday and that involved the discussion that we had about the likelihood of whoever was responsible if in fact that happened of you being set up or framed, it was or it was not a doctor. You indicated at page 926, this is Volume 134, Mr. Commissioner, that your reason for not feeling you could rule out doctors was that you didn't think that a doctor's attendance unsummoned on the ward even continually would have aroused suspicion at the time because - I am looking at line 12 - you said:

"We had doctors that will come back and they may be in looking at a baby, and we wouldn't say, you know, what are you doing here, or where did you come from. We may have known them from a tour that they did on 4A, you know, three, four, five months ago, they could be on a tour on another

"floor and they could have just come down to see who was working."

And that was your basis for not feeling comfortable ruling out doctors.

Now, one thing that I neglected to ask you was, in the case of children who are on constant nursing care or shared nursing care where someone, a nurse is with the baby all the time, wouldit not be virtually impossible for a doctor to, unannounced and uncalled for, intervene in the care of that baby without somebody who was there constantly with the baby noticing that and remarking on it, noticing something was odd, someone who wasn't supposed to be there was there?

- A. Well, that would be right, yes.
- Q. And we have a number of cases of children on the list of 29 Category A and B deaths who were on constant care or shared care. We have Baby Hoos and Baby Estrella and Baby Cook, all of whom were on constant care; on shared care we had Baby Monteith and Baby Gardner. So, we have really five children of the 29 on the list in Exhibit 383 that fall into that category.
  - A. Right.
  - Q. And inasmuch as it is virtually



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impossible in those five cases, as you have agreed, that for a doctor to have intervened unnoticed by anyone or without creating some suspicion, really, doesn't that rule out a doctor as being a potential person who could have met the criteria we discussed and have been responsible for setting you up?

MR. THOMSON: I wonder,

Mr. Commissioner, if it is helpful. I mean, whatever the witness says to this is simply speculation, she doesn't know what investigation was done.

THE COMMISSIONER: Well, I think if that's the grounds for the objection that she couldn't be of some help, but she was there, she knows what the circumstances are and we are not.

So, she can tell us a great deal better whether a doctor would have been noticed or whether he wouldn't.

However, I am having some concern about something even more broad than that as to whether it is really any part of my mandate any more to consider whether doctors are or are not the perpetrator, if there are perpetrators.

MR. THOMSON: I have no difficulty with the first -- Well, may I say two things. I am confused as to what your mandate is now, sir, having regard to the decision of the Court of Appeal,



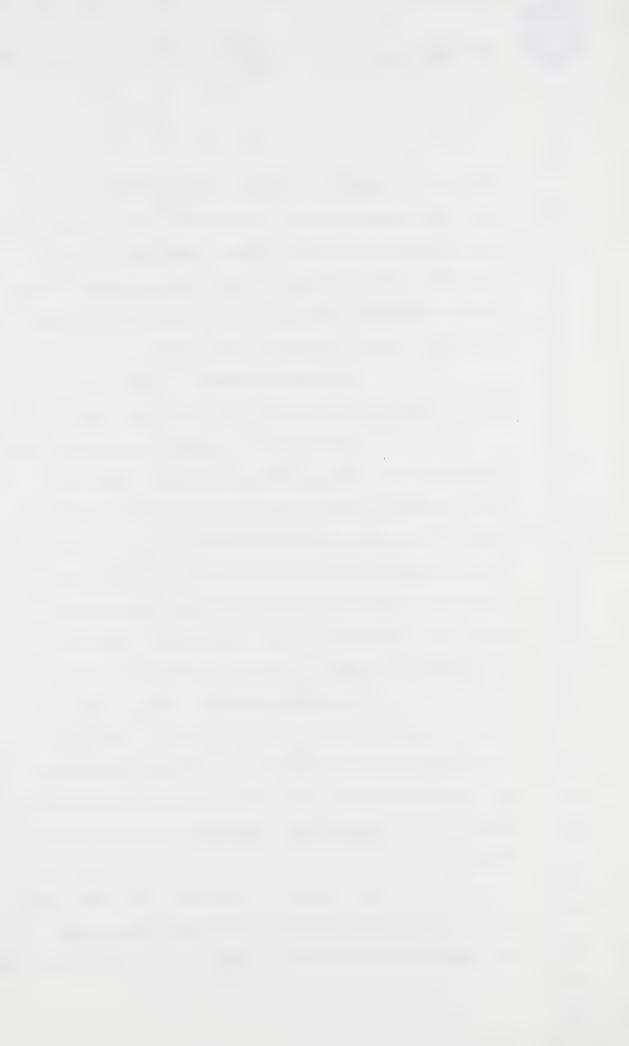
and I don't think I could be of any more help. On the first aspect of it I would not have interrupted if the question of Mrs. Trayner had been to the point of, can you think of any way in which a doctor could intervene in these kinds of situations when there is a nurse there all the time.

THE COMMISSIONER: Well, you think it's a question of law and you are ruling out --

MR. THOMSON: And a conclusion that for example he invites Mrs. Trayner to speculate about whether a doctor could possibly have put anything in the food or in the IV or all the other suggestions that we have heard that nurses might have done during the course of this proceeding. I mean, you are inviting Mrs. Trayner to speculate on all kinds of things that aren't helpful to us.

THE COMMISSIONER: Yes. Well, there is something in that, Mr. Hunt. We've got as far as it would be difficult if not impossible for a doctor to get to a child on constant or shared care. Do you expect Mrs. Trayner to say anything else?

MR. HUNT: You and I may have come to that conclusion but I don't think the witness has indicated that at all. That's what I was going to.



THE COMMISSIONER: All right. But remember that's what the point is. What she can't help us with is the fact that she knows whether a doctor could or could not be involved when she or any other nurse was involved in the constant or shared care. So, if you want to pursue it in that direction, do.

MR. HUNT: Q. Maybe the quickest way to sum this up is to ask you whether in light of what we have discussed this morning about the children who are on constant nursing care or shared care and the virtual impossibility of a doctor being able to intervene in those situations without arousing suspicion, I could ask you whether you agree with Mrs. Coulson who gave evidence here, Volume 108, page 4553 and Volume 109 at page 4659. When asked about this area she told us she couldn't say for sure that it was a nurse, it could be a doctor, but in her opinion it was more probably a nurse.

- A. Well, I can't really rule out doctors and I can't say, you know, it was nurses.

  I didn't do an investigation or have the expertise to give you a qualified answer on that question.
- Q. I know, and that's what you said yesterday. I have just suggested to you this



morning	that	in	five	cases	, five	e of	the	29	case	es	We
have to	rule	out	the	docto	rs bed	cause	e the	ey v	were	or	1
constant	nurs	sing	care	e or s	hared	nurs	sing	cai	re.		

A. Well, I would say that the doctors can come to the floor and look at the baby who is on shared care and on constant care. An example was that Dr. Jedeikin came in, he wasn't called, on the Saturday night at midnight and came in to see Justin Cook.

- Q. It would be pretty hard for --
- A. Susan knew that he was there.

  But I'm not with the children all the time.
- Q. It would be pretty hard for a doctor to come in and administer an overdose of digoxin intravenously to a child with a nurse on constant care, on constant watch of the baby, standing there observing him without arousing suspicion, wouldn't it?
- A. If the nurse was there, but there are occasions when a nurse Susan had left the room when Dr. Jedeikin come in for a second.
- Q. Well, you're talking about one case, ma'am. I'm referring you to a series of 29 and five of which fall into the category of constant care or shared care babies.



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And I think we have heard from Q. you during your examination in chief that it wasn't a practice of nurses on your team, as far as you are aware, on constant care to leave the children unattended.

I think I mentioned that they Α. had gone out on occasion to pick up medications or to pick up a bottle.

Run out for a diaper or a bottle or something like that?

> Α. Right.

So, your concern is during Q. one of these occasions in these five cases where a nurse who is supposed to be on constant watch of a child ran out to get a diaper or a bottle that a doctor may have slipped in and administered the dose?

Α. Well, I'm saying that everything is a possibility.

Q. And I'm not disputing that. I'm just asking you, ma'am, would you not agree that looking at the numbers we are dealing with here, 29 over a nine month period, five of whom were on constant watch by a nurse, that really, I think we



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have	to	say	that	while	anything	is	possible,	it	is	more
proba	ably	a	nurse	?						

- A. I think that would be just purely speculation.
  - Q. You don't want to answer that?
  - A. I don't think I really can.
- Q. Now, we have the incident of Amber Dawson that you have discussed at length, and this is the question of the dispute between you and Susan Nelles about the Code 23 versus the Code 25.
  - A. Yes.
- Q. And as I understand it in summary the problem was that you at the point in time we are concerned with would have called a Code 25, Susan Nelles wanted to call a Code 23?
  - A. That's correct.
- Q. And the effect of a Code 25 is, it brings the resuscitation team?
  - A. That's correct.
- Q. This is a team that works throughout the Hospital wherever there is a cardiac arrest, not just on 4A or 4B but anywhere?
  - A. Right.
- Q. They can be called to attempt to revive a patient's heart to estopped.



A. Right.

Q. You see the importance of the issue, do you, that we are dealing with here, that is, if someone wants to call a Code 25 to bring the resuscitation team before the patient has deteriorated to the point where that type of response would be appropriate then it is open to the interpretation that the person who wanted to call that Code 25 knew something about the condition of the patient that the other people didn't.

A. No, I don't agree with that.



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- $\Omega$ . Well I am suggesting to you that is the significance, or one of the interpretations of some significance with respect to this dispute over the Code 23 and Code 25.
  - A. Is that yours?
- $\Omega$ . I am suggesting it to you and I am asking for your view on that.
- A. No. I viewed a Code 25 as a cardiac emergency.
- and I understand your evidence as to what you viewed, and we are going to get into that. I am just saying the significance of this dispute between the two of you it is important, because one of the interpretations that one can take of the fact that someone wanted to call a Code 25 before the patient had deteriorated to that point is that that person knew something about the condition of the patient that the other people involved didn't. I am just saying that is why it is important, because that is one of the interpretations open. Do you see that?
- A. That may be your interpretation but I never interpreted it that way.
- Ω. Let's go on to see what your interpretation was. You, as I understand your



В2

evidence at Volume 129, page 5354, felt that a Code 25 was something that you called whenever there was a cardiac emergency even though there was still a heart beat and it hadn't resulted in a cardiac arrest?

- A. That's correct.
- Ω. And Susan Nelles' view apparently was a Code 25 was called when the heart stopped and you wanted the resuscitation team there to try to re-start it?
  - A. That's correct.
- Ω. Now you indicated as well that you resolved this problem by making a decision to make a conscious effort to work, try to work together on this?
  - A. Right.
- Q. Now if the reason for the difference of opinion was, as you say, your view that a Code 25 was the appropriate call in any cardiac emergency, I am suggesting to you that what really existed between you and Susan Nelles was a fairly fundamental difference. This wasn't something, I am suggesting to you this wasn't something that is a mere difference of opinion over two ways in which to proceed in a situation, this was a difference of opinion of fundamental importance.



of opinion.

В3

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A. I thought of it as a difference

Ω. Let me try it this way. You both couldn't be right, could you?

A. I don't know what you are trying to say. If a Code 25 was called, the team would be there.

O. I am suggesting that either one of you is right and one of you is wrong. You don't have the resuscitation team rushing to a cardiac ward every time there is an emergency in terms of the heart rate or the heart performance of the patient?

A. No, it didn't. The Code 25s were called, these were critical children that had gone down fast.

O. What I am suggesting to you though, Mrs. Trayner, is that this was a matter of such fundamental importance when you called the resuscitation team. I mean you could have them there, on your interpretation, you could have them there three or four times a day to the cardiac ward. This is a team that floats through the Hospital and is available to go to any ward where there is a need to resuscitate a patient. You could have had them on your ward several times a day based on your



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interpretation.

A. I think you had to assess the situation. In my opinion it was assessed, these children were in the need of treatment, immediate treatment or immediate care, and I called a 25.

Ω. What did you do, if anything, to see what the view of the proper procedure of the people responsible for the resuscitation team was?

A. What they were responsible for?

 $\Omega$ . No. What did you do to see what their view was about when they should be called to the situation? I presume the people involved in that team had other responsibilities in the Hospital as well?

A. Yes.

Q. So they would want to respond to Code 25s that were called in appropriate circumstances.

A. It's my opinion that they felt that the Code 25 was appropriate.

O. When you say "the Code 25 was appropriate", are you talking about Amber Dawson?

A. When the children -- when we called for the doctors, we never heard anything, why didn't you wait or you didn't need us, or anything.



B5

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$\Omega_{ullet}$ We are talking at cross
purposes, I think. Your opinion was that you could
call a Code 25 that was appropriate in any cardiac
emergency. Miss Nelles' opinion was, no, you don't
call a Code 25 for any cardiac emergency; you call a
Code 23 to bring the doctor where it is an emergency
and you call a Code 25 if the heart stops.

- A. That was her interpretation.
- Ω. That was her interpretation.

I am saying to you that you both can't be right. There had to be an approved procedure or condition that a child was in before it was appropriate in the view of the people who made up this team to respond to the situation. I am saying what did you do, if anything, to find out whether your view was right or Susan's view was right?

A. I really don't understand what you want.

Q. Did you go and ask somebody?

Did you go and say, look, there is this difference of opinion here; I think we should call a Code 25 any time there is a cardiac emergency and Susan thinks, no, we don't call a Code 25; we don't bring the team then; we wait until the heart has stopped and that is when it is appropriate to call a Code 25. Did you go



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anybody to give it to you , involved with the resuscitation team?

A. Yes, I did.

 $\Omega$ . Okay. Who?

and ask anybody? Did you seek out that answer from

- A. I spoke to Janet Bede, who was a clinical specialist on the floor.
- $\Omega$ . Was she on the resuscitation team?
- A. No. She is just the specialist on the floor, and I had spoken to Dr. Colm Costigan.
  - $\Omega$ . He is on the team?
- A. Well, he was an ICU associate that would come during the arrest. So, yes, he would be part of the team on some nights.
- $\Omega_{\star}$  Did you go with Susan Nelles when you spoke with him?
- A. I remember speaking to him in the conference room and there was a supervisor --
- $\mathbb{Q}_{\bullet}$  Is this in the context of one particular arrest?
  - A. Yes.
  - $\Omega$ . Who was that?
- A. I can't remember who the baby was, but it was after an arrest, after a 25 had been



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В7

called.

- Q. What did you say to him?
- A. I remember asking him -actually he was concerned at that time with the
  arrest team doing everything that they could do, and
  he felt that they were getting there on time and they
  were doing the best they could, and if we had any
  other suggestions for them.
- Q. I appreciate that. My question is: Look, what did you do to resolve the very precise dispute which you and Susan Nelles had at the time of the death of Amber Dawson? What did you do to go and find out who was right on this question of when you called a Code 25?
- A. Well I did speak to Janet Bedè she is not a doctor.
- O. Did you not think it would be appropriate at that time to get the official position of whoever was responsible for the resuscitation team as to when it is appropriate to call them?
- A. No. I believed that it was a cardiac emergency and no one ever had said anything from the team about it, so I didn't really perceive it to be any problem .



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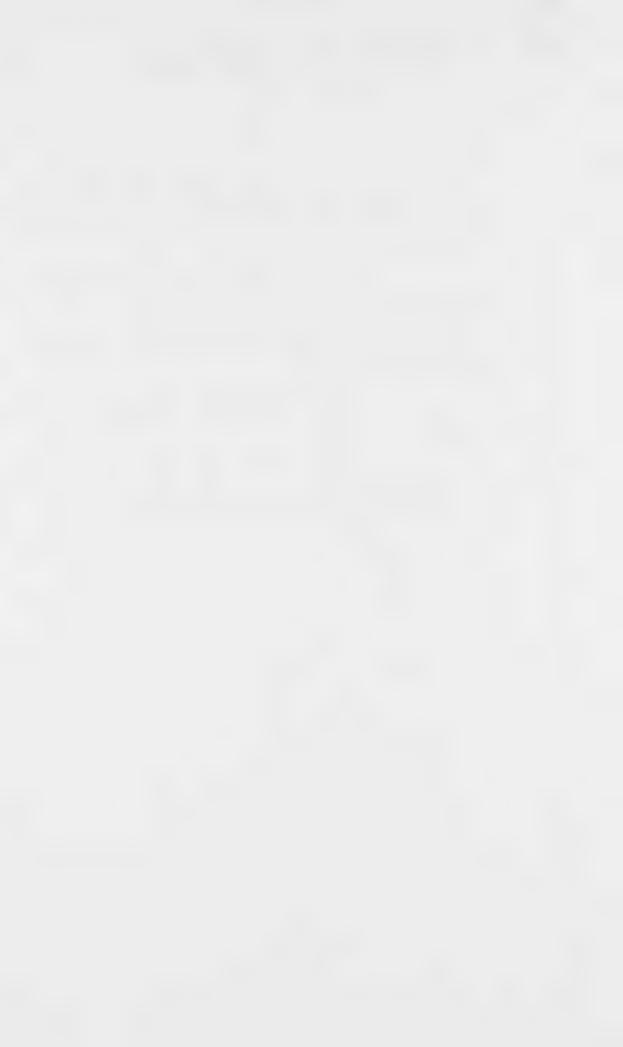
**B8** 

	Ω.	Wel	l Susan	said	some	ething	J
about it because	she	had a	dispute	with	you	very	early
on when Amber Da	wson	died.					

Well I know Susan had, and Susan and I had spoke about it, and that is when I realized that her opinion of the 25 was a complete cardiac arrest.

O. And quite different from your opinion?

Α. Mine was a cardiac emergency, when a child gets into severe difficulty.



Now I didn't call Code 25s on

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someone who may have aspirated or, you know, was choking. I called them when I had assessed the situation, had done vital signs and felt that this child needed the treatment that could be provided from an arrest team.

One We are getting to the area

where I am concerned, and that is inasmuch as you realized early on at the time Amber Dawson arrested that there was a difference of opinion between yourself and Susan Nelles on a very important point, what you call and when it is appropriate to call various codes. At that point my question to you is did you not feel it would be appropriate at that time to seek out the official position of whoever was responsible for the resuscitation team?

You have said you talked to Janet

Bede, not a member of that team. Did you do anything
else that you felt was appropriate?

A. I spoke to the head nurse but I did not speak to any of the members of the cardiac arrest team.

 $\Omega$ . Well, did you not feel that would be the sensible thing to do in a situation like that to find out if you were right?



A. No, I didn't.

 $\Omega_{\bullet}$  Well, was that because after speaking to Susan Nelles and hearing what her view was as to when you called the Code 25s and Code 23s that you felt less than confident in your own position?

A. I think it would be fair to say that we had lost, you know, three or four, five children; three children, two arrests, before Amber Dawson, and when these children got sick, they went, they deteriorated very fast. Now I felt more comfortable with the arrest team there that could provide the treatment for that child.

Our residents can't intubate children on the floor. The anaesthetist has to come, and an anaesthetist is part of the arrest team.

- Q. Well, you may --
- A. And there are medications that can be given before the actual arrest to maybe prevent it or -- and I felt it better to have the people up there that could make those decisions. We couldn't.
- $\Omega$ . You may have felt it better to have the people there and more comfortable, but I



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to.

take it it wouldn't be a desirable situation to have the arrest team assembled and standing around when the situation really didn't call for it. I wouldn't think they would be too pleased about that.

A. I was dealing with children's lives here.

O. Yes.

A. And if I felt they needed it, then I felt very comfortable having them up. If they came up after my call and it wasn't necessary, then that was even better, that we didn't need them. At least they were there in case we needed them.

- O. But you didn't seek out their view as to whether that was the appropriate thing to do?
  - A. I really didn't see the need
- O. You have said that you spoke to Dr. Costigan at some point about this question of arrests. What prompted you to speak to him about it? Had there been another disagreement with Susan Nelles about calling a Code 25 or a Code 23 in that particular case?
  - A. No, there wasn't.



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				Ω.	What	was	it	that	prompted	you
to	speak	to	him?							

A. Dr. Costigan had come down to the conference room with myself and a supervisor.

We hadn't called him or asked him to come. He knew we were going down there and he came down after they had finished up on the floor to see how the team was and how we felt about it and to offer any suggestions that he had and see if we had anything.

Q. Was this after a particular arrest I take it?

A. It was after a child had arrested, yes.

O. Yes.

A. But I can't remember the name of the baby.

Q. Had there been something about that arrest that prompted him to come down and seek you out to see how you felt about it or to seek your views?

A. My understanding was that the cardiac arrest team itself over several of the arrests were feeling that they were being very -- feeling very frustrated that they weren't reviving these children, and they were wondering if there was anything



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they were doing or could they have done something earlier or was there something that the nurses on the floor felt that they could be doing, and Dr. Costigan was just relaying these feelings from the cardiac arrest team or the members that he knew and asking us if we had any other ideas or any suggestions.

Q. So this discussion with him was more of a general discussion about the lack of success in reviving patients when the resuscitation team had been called and suggestions as to whether anything could be changed in that regard?

A. Yes.

Q. You were asked as well by Mr. Lamek about your recollection of preparing certain drugs used in arrest situations and putting them out in a child's room prior to the arrest, and I think the drugs that were referred to at that time were bicarbonate, calcium and adrenalin?

A. Yes.

 $\Omega$ . These are drugs commonly used during resuscitation efforts?

A. That is correct.

Ω. Now again you see the significance of this particular area inasmuch as where a child has died in circumstances that can be described



had done it although you occasion?

as suspicious, if someone has in advance of the arrest prepared drugs to be used during the arrest, it is again open to an interpretation - I am not saying the only interpretation - but an interpretation that that person knew something about the child's condition that others didn't.

- A. Those drugs were drawn up for children that were potential arrests.
- Ω. You have said that this wasn't an unusual procedure.
  - A. No, it wasn't unusual.
- Ω. And I think you indicated to Mr. Lamek that to your recollection Mrs. Radojewski had done it although you couldn't recall any occasions?
- A. No. I know it was done up on 5A, and I can remember Liz Radojewski drawing them up on 4A for a specific baby. I can't remember who it was for, though.
- Q. You said that you yourself had done it although you couldn't recall any specific occasion?
- A. If they were drawn up on the day shift or the previous shift before and in report the child was still unstable or still they felt to be potential, yes, we would continue to keep the



medications at the bedside.

Q. You suggested that this drawing up of the drugs would even be done at the outset of the shift before the child had necessarily shown any signs of difficulty?

A. No. I think what I was saying is that the drugs were drawn up on the previous shift before; when our shift came on, and we felt that the need was still there or the report was that the child was still a potential, then we would discard the drugs that had been drawn up on that previous shift and draw up our own drugs and leave them at the bedside. The drugs were good for 12 hours.

Q. Well, all right. Perhaps you are not saying anything different. Your suggestion, as I understood it, was that at some point the decision may well be made at the start of the shift to draw up the drugs for a potential arrest and that if the conditions were still such at the end of that shift, the nurse coming on the next shift may draw up new drugs because the old ones had expired in terms of their currency, and kept those available during the next shift as well?

- A. That would be correct.
- Q. All right. Now again the



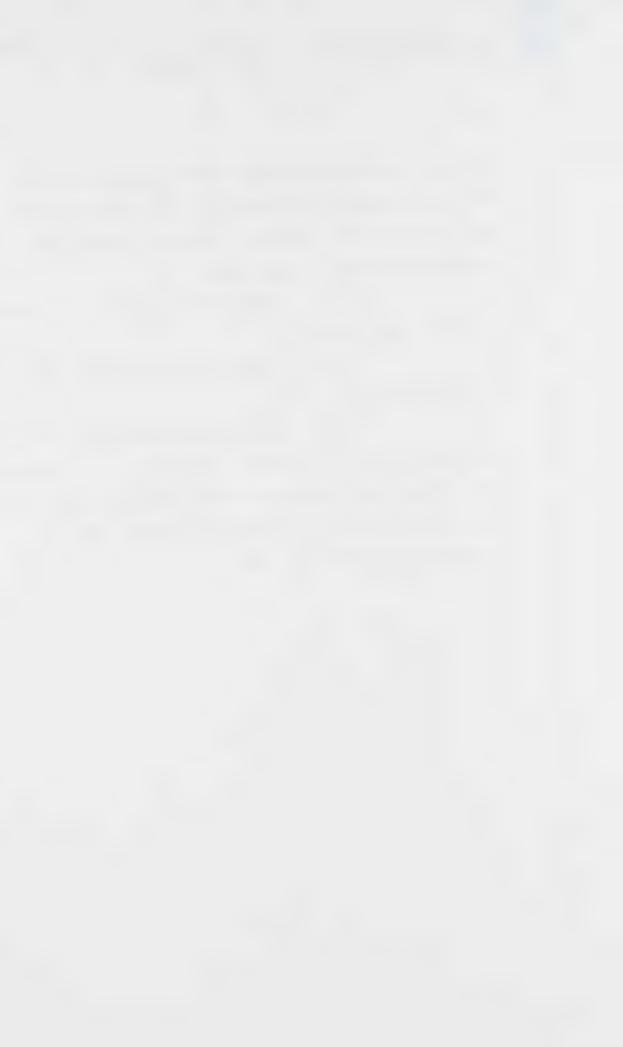
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question arising out of that is why before a child	
was in any sign of difficulty at all would someone	
draw up drugs that would be used only in the event	of
an extreme situation occurring?	

A. Why would somebody draw them up before the child...?

 $\Omega_{ullet}$  Before there was any sign of difficulty at all.

A. I don't believe that they were drawn up if the child wasn't known to be in difficulty. These drugs were drawn up because the child exhibited signs or symptoms of a potential arrest. The children were critically ill.

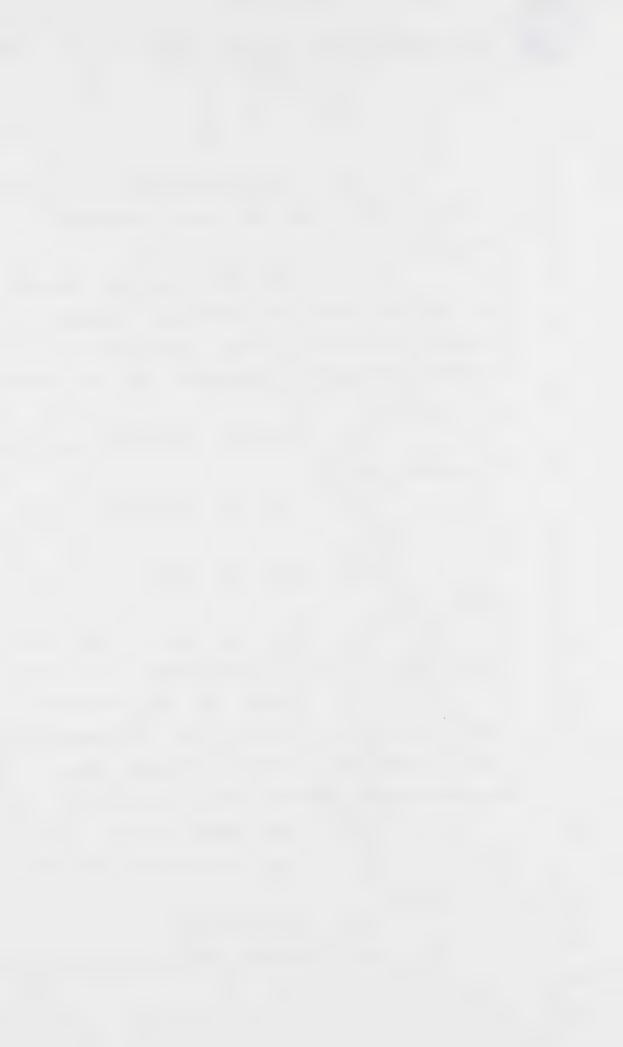




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woul	ldn '	t vo	ou?										

- A. No. There were some children that may have needed some bicarb for a respiratory failure or respiratory arrest. There would be children that would be a potential that could arrest at any minute.
- Q. The type of child who would be on constant care?
- A. Yes, they could have been, yes.
- Q. Were they drawn up for Justin Cook?
- A. No, they weren't, those drugs weren't drawn up, we had Inderal taped to the bedside.
- Q. Right. Why would the other drugs not be drawn up. First of all, you specifically recall that do you, in the case of Justin Cook, the drugs weren't drawn up prior to the shift?
  - A. They weren't drawn up, no.
- Q. Prior to the shift, the start of the shift?
  - A. No, they weren't.
  - Q. And you specifically recall that?



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Q. All right. And my question to you is, it sounds to me like he is a perfect candidate for it on the criteria that you have suggested was applicable to this procedure that wasn't unusual.

A. I don't think we viewed Justin

Cook as being a potential arrest at any minute. He

was a sick baby, he was prone to having blue spells.

I don't think the concern was that he would arrest,

he would have a cardiac arrest.

Q. Can you tell me how you distinguish then in a cardiac ward where the children are all extremely ill as a result of a disease between which child on constant care you would draw them up for and which ones you wouldn't? It seems to me the mere fact the child is on constant care suggests there is a concern that the child may get into difficulties and arrest.

A. There is always that concern with the children on the floor.

Q. Especially the ones on constant care?

A. Constant care can be ordered for the child due to heavy treatments as well, that the child has a lot of medications, he has several



IVs, he's on vital signs, q 15 minutes or q half an hour or q an hour, that it would take up a lot of nursing hours so that one nurse may be assigned to that child.

- Q. You have said there was always a risk or chance with the children on the ward, they were going to go into arrest. I am saying if that is the case then surely a child on constant care it is even more critical?
  - A. No, I can't agree with that.
- Q. So while there is a general concern that the children on the ward because of their disease could go into a serious condition and arrest that there can be a distinction made between those on constant care?
  - A. I'm sorry?
- Q. Well, you have said there was always the concern with all the children on the ward that they could go into a serious spin and have an arrest.
  - A. Yes.
- Q. All right. I am saying, yet you are drawing a distinction between children on constant care as to which ones might be a candidate for an appropriate precautionary procedure such as



drawing up these drugs which you say isn't unsual.

- A. The children would be assessed and if the need was felt that the drugs should be available at a moment's notice then they would be drawn up.
- Q. Was this a thing then that you did when you came on the shift, the start of your shift as the team leader you assessed which children you should draw up the drugs for in advance as part of your routine?
  - A. No, it wasn't.
- Q. Well then how did that decision get made on a day to day basis?
- A. It may have been made by the head nurse by going on rounds with the doctors, that they were concerned about this child. They could have been drawn up the previous shift before and we were told about it in report. They still felt that the child was unstable and critical and we would coninue with the drug, we would have medications there, since they were already there before, we would continue that.
- Q. And so at some point though you would make the conscious decision to continue that?



A. Yes, after speaking to either the nurse that had the child during the day, the team leader during the day or the nurse that had the patient at night.

Q. All right. I am saying to you then inasmuch as you had to at some point make that conscious decision, was it a part of your check list, your mental check list even as you were starting out the shift and assessing the babies to decide whether or not it would be appropriate with respect to this child or this child to draw up the drugs in advance?

- A. No, it wouldn't have been.
- Q. Well then how did it come to your attention, what caused you to enter into this process to make this decision?
- A. I don't recall the drugs
  being drawn up on a lot of these children. If they
  had been drawn up and we felt as a team or on the
  advice of a physician that night that there was
  still a potential for these children then they would
  be drawn up. It wasn't something that we sat down
  and went through every night which child shall we
  draw up drugs for.
  - Q. But you have said it wasn't an



yes.

unusual procedure, it was something that was done in cases --

A. What I am saying, it was not unusual, when Mr. Lamek had asked me, for these drugs to be at a bedside, that was not unusual, I know that it had been done, I know that is has been suggested. It wasn't a regular routine on our floor but it was not an unusual event to have them there, nothing strange about it.

Q. Nothing unusual about it but you are unable to recall for us any case where you made the decision to draw those drugs up and have them available?

A. I am unable to recall that,

Q. Now, we have heard evidence, and indeed I think we have been made aware of it during your examination in chief to the effect that other nurses perceived you to have a preoccupation with the deaths that became unsettling and some of it was referred to, and I tell you that that evidence to that effect is certainly considerable, it comes from Nurses Costello, Bell, Johnstone, Radojewski, Christie and Scott; I can provide the page references if my friends wish.



Your response to that was that you weren't aware that you were harping on it, that is, the deaths, and going on and on, and there was evidence from Mrs. Johnstone that was I think read to you by Mr. Lamek to the effect that even after Susan Nelles had been arrested in March, on into the next year, that you talked so much about the deaths and the police investigation that she stopped seeing you socially because she found it so discomforting.

Now, you have indicated that you just simply weren't aware of this fact that you were harping on it or going on and on. Does it surprise you, thinking back on your conduct, that others viewed it that way?

A. I think I have to clarify it.

Up until March 12th when Mr. Lamek had asked me the question I thought what the nurses were saying was that I was preoccupied with death and the cardiac arrests.

Q. Yes.

A. But I think what you are saying is that I was preoccupied with death and Susan Nelles' arrest.

Q. No, no, I am suggesting it was even asked after Susan Nelles was arrested that you



were still preoccupied with the deaths to the point that even in the next year the evidence that was read to you by Mr. Lamek, Mrs. Johnstone stopped seeing you socially because she found it so unsettling. I'm saying that's the evidence that we have heard as considereable with respect to your preoccupation with these deaths, it indicates it went on for a long period of time, for long after the time when Susan Nelles was arrested. Your response was that you simply weren't aware of the fact that you were harping on it or that you were going on and on.

Now, I'm asking you, are you, looking back on your behaviour in this period, are you surprised that others took this view of your preoccupation with death?

A. Yes, I am.

Q. Because you don't view yourself as having that kind of a preoccupation with the whole thing.

A. Well, in January after Susan Nelles' arrest in March I can remember talking a lot about the arrest of Susan Nelles.

Q. Her arrest. We're not talking about that right now, we are talking about deaths.



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	A.	No,	I didn't	t, I	really	can't
remember	talking a	bout dea	ths or o	cardi	ac arre	ests
after Susa	an Nelles	' arrest	except	for	maybe t	che
children t	that she	had been	charge	d wit	h.	

- Q. Did you think you talked about them to the point people would feel you were preoccupied with it?
  - A. No.
- Q. So, this does come as a surprise to you that others viewed your behaviour as amounting to a preoccupation with this whole situation of deaths in the Hospital?
  - A. Yes.
- Q. Well, did you ever try to buy digoxin over the counter in a pharmacy?
- A. No, I never attempted to buy digoxin, I enquired about it.
- Q. And did you do that with Miss Frise?
  - A. Yes, I did.
- Q. And that was some time after Susan Nelles was arrested, was it?
  - A. Yes.
- Q. When was that? Was it on into the next year?



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2	A. I thought maybe June, June or
3	July maybe.
4	Q. June or July of what year?
5	A. Well, the same year that
6	Susan was arrested, '82?
7	Q. '81?
8	A. '81.
	Q. It could have been later
9	though?
10	A. It could have been later, yes.
11	Q. You're not really sure of
12	the time?
13	A. No.
14	Q. So, as I understand it you,
15	along with - you were having lunch with Miss Frise?
	A. And Lynn Johnstone.
16	Q. And the topic was concerning
17	digoxin and the role that it played in the deaths
18	and where one could get digoxin and how one would
19	go about?
20	A. No, it wasn't the whole topic.
21	I had been interviewed by the police on two
22	occasions I think prior to that and they had asked
23	me was it possible for someone to build up their
24	own supply and I said I didn't think so unless



digoxin was open on our floor. They then asked, could we buy it over the counter, could someone go and buy it and I said not to my knowledge, I thought digoxin was a prescription drug. They asked, are you sure and I said, well, I'm pretty sure, I have never heard of anybody getting digoxin and I have always seen it written out in prescription and he said, well, you're sure then that you can't and I said, well, I'm pretty sure.

That night I had gone to work and we were at the nursing station and I had asked Bertha Bell. I said, you can't buy digoxin without a prescription and she said no, she didn't think so.

Dr. Michael Schaffer was on the floor as well during a conversation and he said that years ago, or, I can't remember how many years, two, three years ago the drug was not a prescription drug, that if you looked in the pharmacy book that it didn't have a little 'p' on it to say that it was prescription and that you could buy it over the counter.

I was surprised, all through my nursing career
I have always believed it to be a prescription drug.

Then we went out to lunch with Lynn

Johnstone and Meredith Frise and I asked Lynn, did

she know that it is a prescription drug and she



thought it was as well. I then told her about Mike Schaffer telling us, Bertha and me and there was a couple of others at the station, that years ago it wasn't and she said that she was surprised.

We finished lunch and we were walking by a drug store and Meredith had said, well, I guess we could find out here and I said, well, yes, the pharmacy is there, I guess we could ask the pharmacist. I said to Meredith you ask and she said no, you ask. I went up and I asked the pharmacist can you buy digoxin without a prescription and I thought he had said no, you can't. The police had asked me again on another occasion and I had told them that, no, I had gone to the pharmacy and they had said no.

Q. All right. So, the police had asked you I take it in the course of the interview whether you knew if people could acquire digoxin without a prescription?

A. Right.



E/DM/LN

Q. And you pursued that with your colleagues on the ward?

A. Yes.

- Q. And then you pursued it to the extent of going to a pharmacy and enquiring of the pharmacist as to whether or not you could get digoxin without a prescription?
  - A. Yes.
- Q. And you are not suggesting that the police asked you to do this in some sort of an undercover capacity, are you?
- A. No. What I am saying though is that the police were insistent on "do you know for sure? Are you positive?"; and I wasn't positive then when they kept asking, so I had asked the girls on the floor and it was our opinion that it was a prescription drug.
- Q. Let's be quite clear. Are you suggesting to us that the police are the ones that put you up to going to see if you could buy digoxin over the counter, or was this your own pursuit?
- A. No, they didn't ask me to go to a pharmacy and ask. But they had asked.
- Q. They asked you and you were sufficiently interested in it that you pursued it



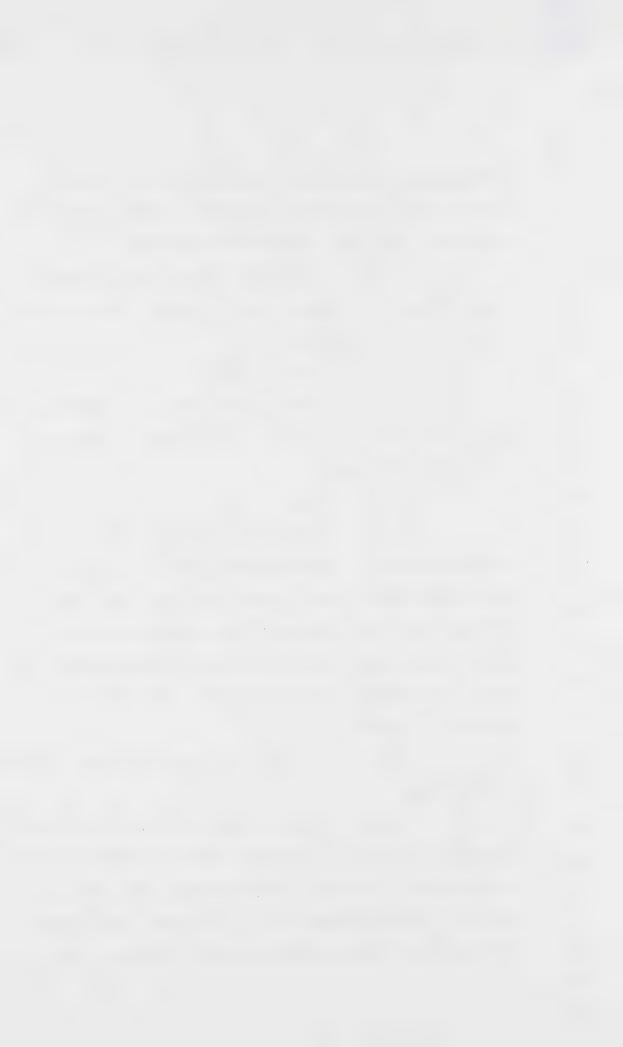
with your colleagues and you pursued it with the pharmacist?

- A. I had given the police an answer and I wanted to make sure it was correct.
- Q. You wanted to conduct your own investigation into the availability of digoxin?
- A. I wanted to make sure that my answer to the police was correct, I wasn't sure.
- Q. So you wanted to conduct your own investigation to verify your answer?
- A. Well I wanted to ask and I did, and if that is an investigation, then yes, I did.
- Q. You don't consider that a bit of a preoccupation with the subject of digoxin and the deaths that were attributed to it at the hospital?
- A. No, I don't. I was asked on several occasions from the police about this drug and the information I was given and I wanted it to be correct.
- Q. Do you think that you sought attention of others during this period, this nine month period at the hospital? Did you view yourself as an attention seeker?
- A. I asked questions. I wanted to know answers. If that came across as seeking



reassurance I can't really dispute it, I had a team of girls that were coming to me and asking me questions and I had to give them answers.

- Q. I am not talking about seeking reassurance. My question was, did you view yourself as an attention seeker?
  - A. No, I didn't.
- Q. Did you feel that you needed to be at the centre of things, the centre of what was going on on the ward?
  - A. No.
- Q. Because you see we have heard evidence from Nurse Costello that you carried on so much about these deaths, and you got lots of attention as a result of it, so much so that other nurses were upset because you were getting the amount of attention that you got. Does that feel familiar to you?
- A. I think the attention went to the Trayner team.
- Q. That is not the evidence we have from Nurse Costello at Volume 96, page 1550 1559. It was that you, you, not the team, you, Phyllis Trayner, were carrying on so much about the deaths and getting so much attention as a result of your



carryings on that other nurses were becoming upset with you. My question to you is, does that feel familiar, does that accord with your recollection of the situation.

- A. Maybe to a small degree, yes. The questions I was asking and the reassurance I would be seeking was not only for me but for the team, and it may have come across for me.
- Q. Well you knew, in any event, that you were personally getting a lot of attention from others during this period of time, is that what you are indicating now?
- A. Well I knew I asked a lot of questions.
- Q. I am not just talking about the questions there Mrs. Trayner. We have heard evidence about you were upset at the deaths, about your crying after the deaths, and continually seeking reassurance along with those things. It is not just a case of your asking questions, it is a case of your "carrying on" is the phase Miss Costello used. You carried on to the extent that other nurses were upset with the amount of attention you were getting. That is what I am asking you, if it feels familiar.

A. Yes.



Q. Now we have also heard from
a number of others about your reaction to the taking
of a sample of Justin Cook's blood by Dr. Jedeikin
after he had died, and this is an area of really
stark constrast between the description that they
have given of your behaviour and your own recollection
of it. We have heard, and I am referring to the
evidence of Nurses Johnstone, Radojewski and Nelles,
to the effect that you were extraordinarily agitated
by the fact that Dr. Jedeikin took a sample of Justin
Cooks' blood after he had died. Your evidence is
that you don't remember seeing him take this sample
from Justin Cook; that you can't recall any particular
concern or puzzlement about the taking of a post
mortem sample; and you have no recollection of being
particular agitated about that. I am referring to
Volume 132, page 793 and following. Now, you see
what I mean by the stark constrast between the
evidence we have of your reaction from the others
and your own evidence of really no recollection of
any puzzlement or agitation at it. Do you not
recognize any truth in what the others have said,
does it not feel familiar to you now looking back on
it?

Well I said I was upset with

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what had happened that night. I did say that I couldn't remember specifically being upset about the post mortem blood, but I can clearly remember asking Dr. Jedeikin what was going on and asking Dr. Fowler, and being upset for the whole - because of the events of that Saturday night and nobody giving any answers. I again had people asking me what was going on.

I have to deal specifically with you on this because that is the way the witnesses dealt with it. The evidence was that you were extraordinarily agitated about a specific event, that is the taking of blood from Justin Cook by Dr. Jedeikin after he had died. You have said that you don't have any recollection about any puzzlement, or concern, over that specific event, the taking of blood. You have no recollection of feeling particularly agitated about that. I am suggesting to you that is in stark contrast between the evidence of other witnesses on the one hand and your recollection on the other. I say to you does it not feel familiar to you when you hear what they had to say about it? Do you have no feeling of familiarity about that account of your behaviour that night at all?

A. No, I don't.



	Q.	Has	this	happ	pened	to	you	befor	ce
whereother	people o	an r	emembe	er be	ehavi	our	of :	yours	and
characteriz	zed it ir	a p	artic	ular	way	wher	e y	ou hav	<i>i</i> e
no recolled	ction of	that	?						

A. I really don't know what you want, what answer.

Q. Well we have a case here, we have had other cases through the evidence where you have no apparent recollection of a reaction, or acting in a particular way as a result of something where others have characterized it quite graphically. I am asking you, is this something you have encountered before where others are characterizing your behaviour and you have no recollection of acting in a particular way?

A. I think you have to take it as it being their interpretation, and you have to take it - for that point.

Q. We have heard the evidence of Bertha Bell.

A. Yes.

Q. About observing you administering something to the buretrol of Allana Miller and at a time when she has fixed it, somewhere around midnight, and you have indicated that she saw that, that was



the 1:00 o'clock gentamicin administration?

A. Yes.

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- Q. When you heard of Bertha Bell's evidence to that effect, that you had administered something to the buretrol of Allana Miller at about midnight, when you first heard of that were you shocked by it?
  - A. No, I wasn't.
  - Q. Did you know it was coming?
  - A. No, I didn't.
  - Q. Why were you not shocked by it?
- A. I had thought that Bertha was just wrong on her times. Because I knew I gave the 1:00 o'clock gentamicin and I had said that to the police, and at the preliminary hearing, and I was sure that Bertha had just mistaken on the time.
- Q. Were you also aware of the fact that she had indicated that this was something that she had remembered subsequently to the preliminary hearing, something she had not testified to at the preliminary hearing, but that she now had a recollection of? Surely you must have appreciated that she was now testifying to an event where she, mistaken or not, in your view, had fixed the time of your administration of something to Allana Miller at



a time when nothing was supposed to be administered.

THE COMMISSIONER: Yes Ms. Symes.

MS. SYMES: With respect Mr. Commissioner, that is not exactly a fair statement of Mrs. Bell's evidence with respect to the answer that she gave in cross-examination to Mr. Cooper, in which he asked a two part question of her with respect to whether or not she was aware of the fact that Mrs. Trayner had in fact administered gentamicin into the child, and there is an answer "yes" to a two part question.

MR. HUNT: I think we went through this all --

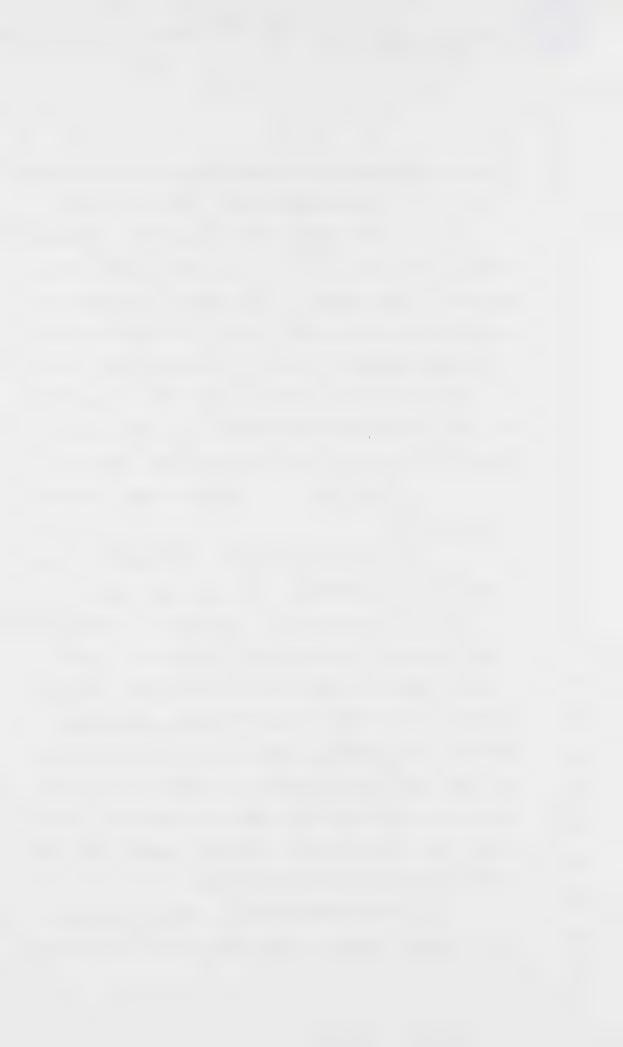
THE COMMISSIONER: I am sorry, I was looking at Mr. Thomson. Have you anything --

MR. STRATHY: Actually Mr. Commissioner

I was going to rise on this a little bit earlier.

I think when Mr. Lamek was examining Mrs. Trayner
in relation to this he quite fairly and properly
pointed out that Nurse Bell's evidence was that it
may have been 12:00 o'clock but later on in crossexamination she said it could have been at a later
time. So I don't think, with all respect, Mr. Hunt
is being quite fair to the witness.

THE COMMISSIONER: Yes, that is my recollection. Her initial evidence as I understood



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it, the time the child was being taken to the echo lab and that we have established was shortly before 12:00 o'clock.

MR. STRATHY: Yes.

THE COMMISSIONER: And at some later time during the course of her cross-examination she indicated it might have been gentamicin.

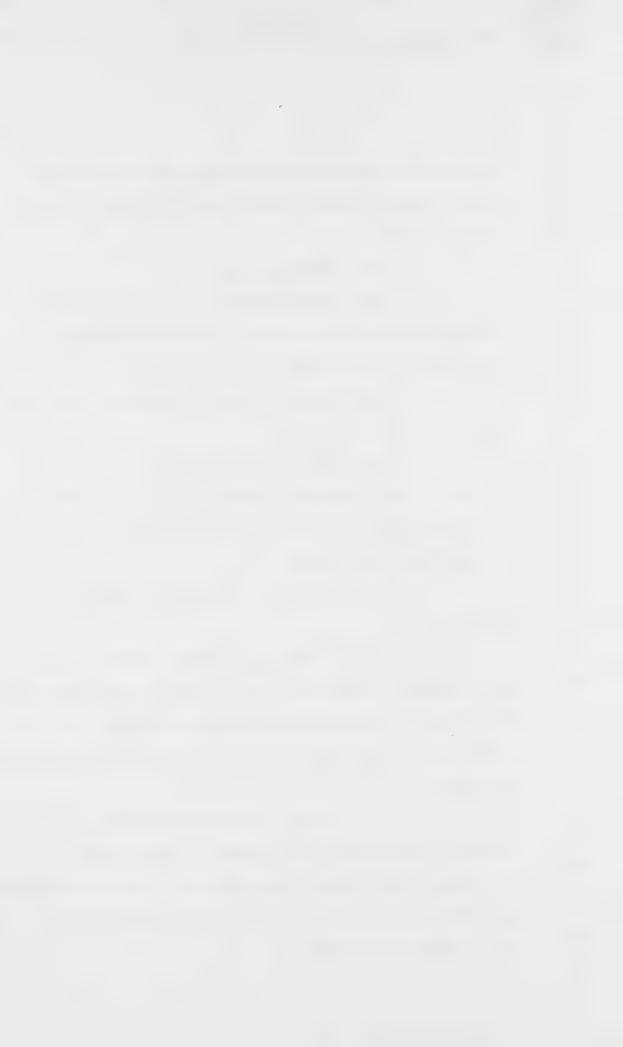
MR. STRATHY: That's right at the later time.

THE COMMISSIONER: Which was at 1:00 o'clock. Well now Mrs. Trayner, with the benefit of all of that information, and the question is still outstanding, is it not?

THE WITNESS: Would you repeat the question.

you heard her describing to you the act of administering something to Allana Miller on her evidence, and you have heard it at least in part, at midnight or before midnight.

A. No, I wasn't surprised. I really thought Bertha was just mistaken on the time. I knew that I had given Allana Miller a drug at midnight or 1:00 o'clock and I was there and I wasn't very surprised at all, no.



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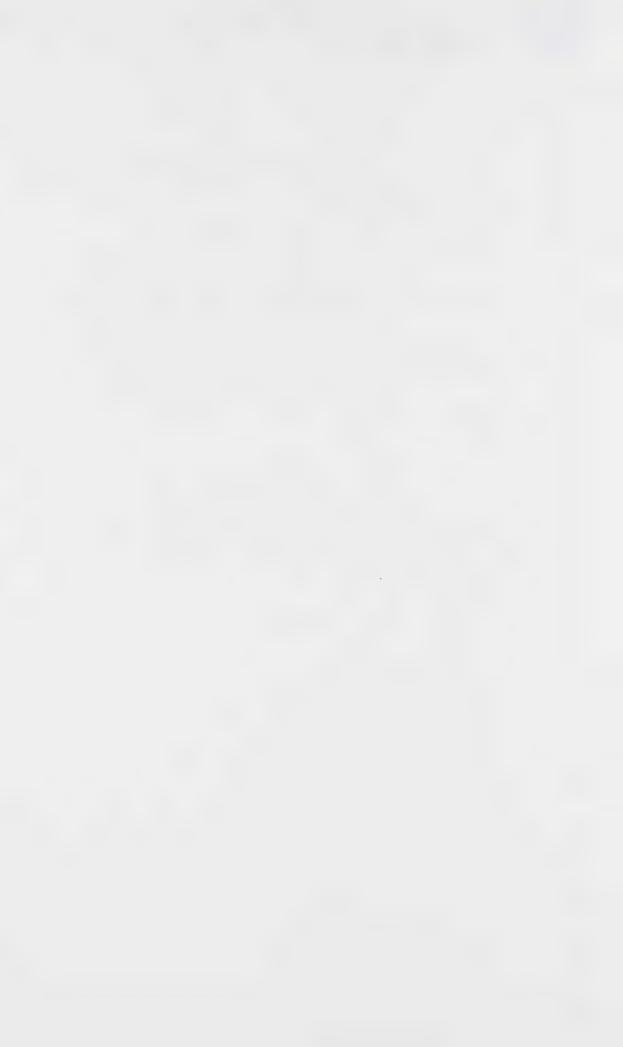
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		Q.	And	you	didn't	know	that	that
idence	was	coming	?					

- A. No, I didn't.
- Q. You spoke to her on the telephone a week before she testified here, did you not?

A. I spoke to her, I think it was on the Friday before she was coming, yes.

- Q. I think she indicated that you called her?
  - A. Yes.
- Q. At least once during the latter part of the week before she testified, which would be I think, as you recall it, sometime around the Friday?
  - A. Right.



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Q. That was at the point in time when she was I think being interviewed by Commission Counsel to give her evidence. I am sure she mentioned that to you.

- A. No, she didn't.
- Q. Well, why did you phone her?
- A. I had heard that she was up next for the Commission, and I had just called her to say "We'll be thinking of you".
- Q. To sort of renew acquaintances with her?

A. No. I was supposed to have gone -- I think I was supposed to go over the week before and I hadn't, and I just phoned to say hello and "I hear you're up on Monday and our thoughts will be with you."

 $\Omega$ . Did you talk to her once or twice that week?

A. I really can't remember. I know it was the Friday before she went up on the Monday.

- Q. You can't remember so you are saying it could have been more than once?
  - A. It may have.
  - Q. Did she talk about the



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exp	perience	she	was	goi	ng	throug	rh c	of bei	ng	intervie	wed
bу	Commissi	on	Couns	sel	in	order	to	gi.ve	evi	dence?	

- A. No, she didn't.
- $\Omega_{ullet}$  Did she tell you what she was anticipating by way of the evidence she was going to give the Commission?

A. No. We didn't talk about the Commission or anything except to -- I wished her luck.

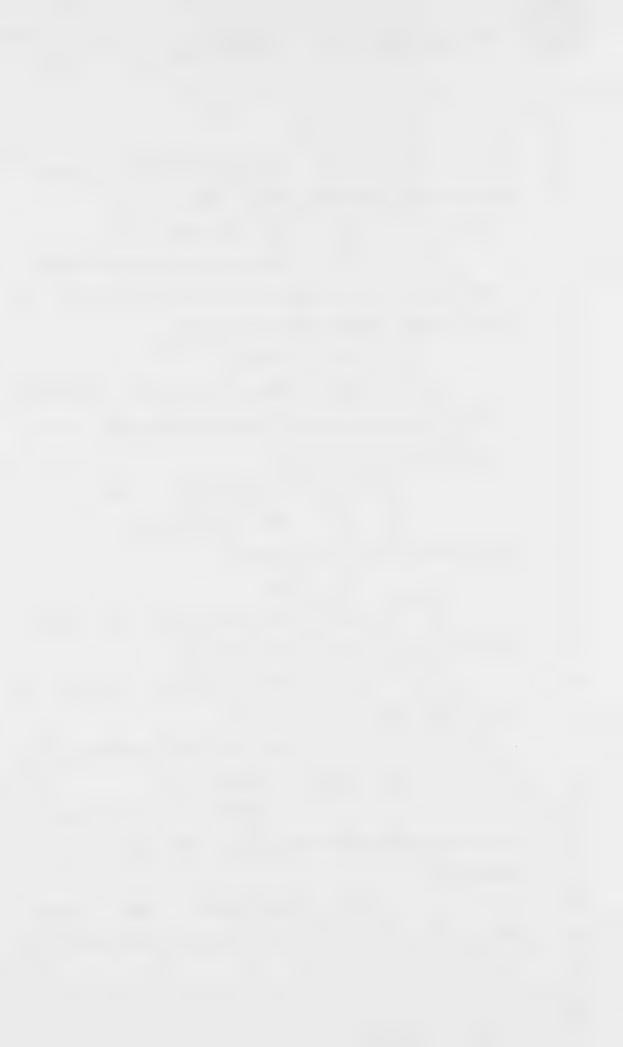
- $\Omega_{\bullet}$  There was no discussion then about this piece of evidence of you administering something at midnight or therabouts?
  - A. No, there wasn't.
  - Q. Did you discuss that with her
- A. No, I haven't spoken to her since that Friday.
- $\Omega$ . You haven't spoken to her since before she testified?
  - A. That's correct.
- Q. When was the last time you spoke to her prior to the Friday before she testified?
- A. It may have been the week before. I was invited over for lunch and I remember that I couldn't make it that day and I had called her back.



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	Ç	ĵ.	So	you	ı two	shared	a	social
relationship	over	the	years	I	take	it?		

- A. Yes, we have.
- $\Omega$ . And this continued through right up until the last conversation you had with her on the Friday before she testified?
  - A. Right.
- Q. Would this social relationship have you talking together on the phone once a week, twice a week?
  - A. Probably once a week.
- $\Omega_{ullet}$  And this has gone on for some number of years I gather?
  - A. Yes.
- $\Omega_{ullet}$  And then it all of a sudden stopped when she gave that evidence?
- A. Yes. I haven't spoken to her since that time.
- $\Omega_{ullet}$  Did that have anything to do with the evidence that she gave?
- A. I was advised not to speak to anybody that would have to be testifying at the Commission.
- $\Omega$ . All right. I take it then after that point in time you followed that advice and



that is why you haven't spoken to her?

- A. Yes.
- $\Omega$ . Prior to that you were talking to her on a fairly frequent basis?
  - A. That's correct.
- $\Omega$ . And during those times you talked before she gave her evidence did you discuss the evidence that had been given at the Commission that you were both aware of?
  - A. No, I don't recall we had.
- $\Omega$ . She indicated, Volume 100, page 2771, that from time to time the two of you may have spoken about the evidence that was given at the Commission.
- A. If we did, it was in passing. She told me that the RNAO was having a meeting and a get-together on the update of the Commission and would I like to attend and, yes, I would, and the RNAO had sent in, you know, summaries of what was going on. But I was getting all the information I needed from my lawyer and the media was covering it, so there really -- if we spoke about the Commission, it was just in passing.
- $\Omega_{ullet}$  In any event on the Friday before she testified there was no talk about the



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Α. The only thing I said to her was "I hear you're up on Monday. Good luck. thoughts are with you. I'll be thinking of you."

Q. But no discussion with respect to the evidence she was to give?

> Α. No, there wasn't.

THE COMMISSIONER: If you want to

rise now?

MR. HUNT: I was going to go into a

new area.

THE COMMISSIONER: Yes. All right.

We will take our break now.

--- recess.

--- on resuming.

THE COMMISSIONER: Of great importance but no particular interest to most people is that the Chairman of the Municipal Board has extended our lease very kindly to the 11th of May, which is a Friday. In the ordinary course, the 10th of May will be our last day here. After that, we are moving upstairs to much smaller, much more cramped quarters. I am sincerely hopeful by that time no one will have any interest in us whatsoever. Perhaps if you feel me trying to wind down Phase I



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by the 10th of May, you will understand what is happening.

All right, Mr. Hunt.

MR. HUNT: I will certainly be

finished by the 10th of May!

MR. LAMEK: Promise?

MR. HUNT: Q. Now, Mrs. Trayner, you told us about the reason why you were giving the gentamicin to Baby Miller at one o'clock for Susan Nelles. You said at Volume 132, page 613, that just before she went down to the echo lab she told you about the antibiotic that was running through the buretrol at that time and that it would be due to finish within 15 minutes or so and that she told you that she had to give another medication but she didn't know what the medication was or what time it was to be given and could you check for her.

A. Right.

Q. Right. Okay. So it was obvious at that point when you were talking to her that she didn't know what was to be given to Baby Miller in the upcoming hours?

A. Right.

Q. And she wanted you to check it?

A. Right.



apparently.

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Ω.	She	didn't	have	a	note	of	tha

A. She probably had a note in her pocket but she didn't have an instant recall of what was to be given.

Q. Well, if she had a note in her pocket, wouldn't she have pulled out her crib sheet and told you what medication was to be given and what time?

A. She had Justin Cook in her arms and was taking him over to the echo lab.

Q. Yes.

A. I was covering the floor, the patients for her, and she was just filling me in on her patients because she wasn't going to be there for 15 minutes, half an hour.

Q. I am suggesting to you, ma'am, that if Susan Nelles had either known or had a note on her person at the time she asked you to look after the future doses of Allana Miller, she would have either told you what medication and what time or she would have taken out her note and read to you from it to inform you as to what medication and what time.

Doesn't that seem reasonable?

A. No. She knew the medication



F8

was running through the buretrol. She knew that the medicine was going to be finished within a few minutes. She knew she wouldn't be there to check the IV. She also knew at that time that another medication was due, but she wasn't sure of the time of the medication or what it was to be given.

She had Justin Cook in her arms. She was giving me this little report on her patients and being the team leader it is my responsibility to make sure that the care is kept up if the nurse has to be called away.

Q. I appreciate all that. I am just suggesting to you doesn't it seem reasonable if she had a note on her crib notes as to what medication and what time, it would have been the simplest matter for her to tell you that right then?

A. I don't think -- well, I don't think she even thought of that. It is very simple for me to check Allana's chart or check the medication ticket.

- Q. Right. Creating the possibility that you might miss the dose of a particular drug that she had recorded on her crib notes could you check the chart or something else.
  - A. When she told me that another



F9

drug was to be given, I checked the medication tickets and saw that there was a ticket for Allana Miller in the one o'clock slot.

Q. Well, I am just suggesting and using your words, she told you that she had another medication to give, "She didn't know what medication it was or what time it was to be given, and if I could check that for her." Those are your words on page 613.

A. Right.

Ω. Now if she had a note on her crib notes as to what medication and what time, I'm suggesting to you it is reasonable that she would have taken it out at that time and told you what medication and what time.

Now that's all. If you don't want to agree that would have been the reasonable thing for her to do, then just say so.

A. No, I don't. Her hands were full. She was holding Justin Cook.

Q. All right. So you say in any event that is why you checked the medication for her in such a careful, deliberate way?

A. Yes.

Q. Because you were afraid that



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she would forget that you had given the dose and she would check her crib notes and see that she had a dose recorded there and maybe would give a second dose?

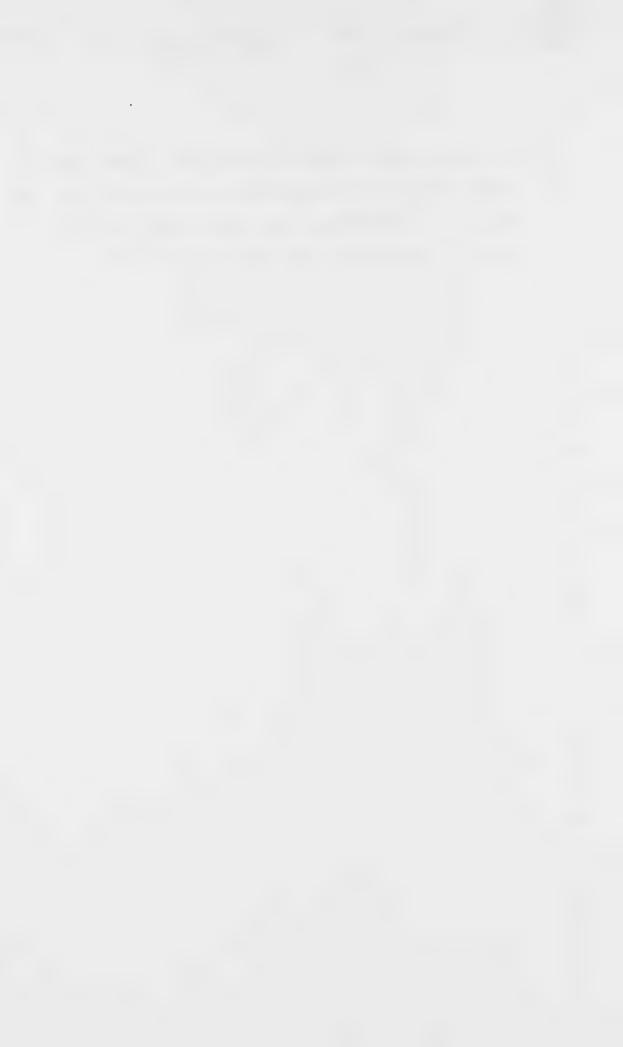
- A. That is correct, yes.
- Q. So you recall now that she told you she didn't know what time or what drug? You recall that now?
  - A. Yes.
- $\Omega_{\bullet}$ . You told us that the other day. I suggest you recall that quite clearly that night?
  - A. Yes.
- Q. And it must have been apparent to you that Nurse Nelles didn't have any idea what drugs she was going to be giving or at what times, so the chance of any duplication by her was very small?
- A. She didn't know what time the drug was to be given.
  - Q. That's right.
- A. I can speculate and say she felt the drug had to be given at midnight and that since she wasn't going to be there, could I check to make sure that the drug was given.

When I knew that the gentamicin had



F11

to be given and it was given at one o'clock, when Susan Nelles had returned from the echo lab, she was busy, as I could see, with Justin Cook. She was trying to settle him and feed him as well.





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I can't remember what I did, whether
I went in and said Allana Miller is due the gentamicin
at 1 o'clock, do you want me to give it to you or did
she suggest it to me, I don't know. Checking it
with her was to avoid duplication after 1 o'clock.

- Q. Right, because you were afraid she might look on her crib notes and see she had a dose to give and give another one?
- A. Well, yes, I wanted to impress upon her that I was giving this medication and that she would be assured that it was given.
- Q. Didn't it strike you at the time when you were about to go down and show that that, geez, she probably doesn't have a note of it or she wouldn't be asking me to find out what it was and what time it was to be given.
  - A. No, it didn't occur to me.
- Q. The other reason you gave for going out of your way to check this dose at 1 o'clock with her was that because of the concern about a possible inquest into the death of Baby Pacsai there was a heightened concern on the ward about drugs that were given and being sure that one was correct?
- A. Well, we knew the inquest into Pacsai may be a reality.



Q. But you have suggested that
that is another reason why you went out of your way
to check the drug so carefully with her was because
of this heightened concern about drug administration
and the Pacsai inquest?

A. But that was a very small concern.

Q. Did you check any of the other drugs that you gave that night with any other nurse?

A. Well, I would have had my medications checked. I can't remember who I gave medications for that night but being the only other RN on the floor other than Susan Nelles, yes, I would have had the digoxins checked. If I was giving any Inderal that would have been checked. All the medications that we usually check on our floor would have been checked by somebody else.

Q. Well, did you go out of your way to check them the way you did with the gentamicin?

A. Well, I can't recall what medications I gave that night. I know I had to go over to Bertha Bell to get her to check the medications for me.

Q. So, am I correct the only one you can recall that night was the gentamicin dose



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that you checked	with	Susan	Nelles?
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- A. Right.
- Q. Well then I suppose the purpose or the effect you hoped to get from checking it so carefully with her has indeed been achieved because the one thing you wanted her to remember was that you were telling her at 1 o'clock that you were giving gentamicin to Baby Miller?
  - A. That's correct.
- Q. And that is certainly one thing that she has remembered.
  - A. Yes.
  - Q. And one thing that you have

remembered.

- A. Yes.
- Q. Indeed, the only drug administration check that you can remember?
  - A. That's right.
- Q. Now, there was one conversation that you talked about that I just want to be clear on. You said after Baby Cook died you and Nurse Radojewski and Susan Nelles went down to the coffee shop and for 20 minutes or a half an hour you had a coffee.
  - A. That's correct.



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			Q.		And	at	this	poi	int	in	time	you
had	two	deaths	in	two	nigh	nts,	that	:'s	Bab	oy 1	Miller	c
and	Baby	Cook.										

A. Yes.

Q. Right, the digoxin had been locked up on the ward on the Saturday night.

A. Yes.

Q. Right, and then we had had this strange taking of a postmortem blood sample from Baby Cook by Dr. Jedeikin immediately before you went down.

A. Yes.

Q. We have heard the others accounts of your reaction to that. You said at the meeting in the coffee shop you didn't talk about the events of that night you talked about the weather.

A. Yes.

Q. Now, are you seriously suggesting to us that after all of those events in that period of time the three of you got together in the coffee shop immediately after leaving work and talked about the weather?

A. We had just had a meeting upstairs with Liz Radojewski in the dirty utility





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room and she was aware of everything that had happened Friday night and Saturday night and early Sunday morning and it was Mrs. Radojewski's suggestion that we just go down for a cup of coffee and relax and that's what we did. I remember, and I think I told Mr. Lamek, that the only other topic that was discussed was that Liz Radojewski had asked Susan Nelles had she written out notes on Baby Pacsai for the upcoming inquest, if there was to be one, and Susan's response was, yes, I had.

And once that had been 0. discussed then all of the events of the tumultuous shift or two shifts that had just ended were put aside?

Yes, they were. I can't Α. recall anything else that was discussed.

- Other than the weather. 0.
- Α. Yes.
- Now, we have heard some evidence from Janet Brownless about your reaction to hearing on the television on March 25th of the arrest of Susan Nelles by the police.
  - Α. Yes.
- And as well your reaction 0. several days later on the Friday of that week to



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events at the Sick Children's Hospital. She reported you as being in grief, such grief at the time you heard the account of the arrest that you were like a mother grieving for a lost child and she said your comment at that time was "Why her, why not me, I was there just as much as she was". Now, first of all, do you have any recollection of that?

continuing news reports about the arrest and the

Well, the comment isn't complete but I do remember what Janet Brownless was talking about, yes.

All right. So, there's more Q . . to the comment?

- Α. Yes.
- Q. You can recall that?
- Α. Yes.
- Q. All right, do you want to tell

A. We were listening to the news and I had said to Janet Brownless, and my husband was there at the time too, "Why her, why not me, why not you and why not Bertha Bell, why not anybody, this has to be a mistake". We were all there.

> Q. All right. So, you went through



the	names	of	the	other	people	on	the	teams?
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A. Yes.

Q. In this comment as to why not them and you didn't say, as she has reported "I was there just as much as she was."?

A. No, I said that we were all there with Susan.

Q. I see, it wasn't just you.

So, this comment, contrary to what Janet Brownless said which was basically that you were referring to Susan Nelles and yourself that this comment on your recollection of it was referring to everybody individually and collectively?

A. Yes.

Q. Well, if that was the comment as you have related it to us now, how would Janet Brownless have come to the conclusion that you were grieving about this arrest like a mother over a lost child?

A. I can't explain what Janet
Brownless said or thought. I remember being
extremely upset that homicide was here, that a
child had been murdered, that someone from my team
was charged with murder. It was just unthinkable,
you know, I was shocked.



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			Q.	•	You	ı see	, there	e is	quite	a
stai	ck diff	fere	ence	betv	veen	the o	comment	ts yo	u reca	all
and	refer	to	and	the	one	that	Janet	Brow	mless	has
reco	ounted	for	us							

- A. I don't really see that there is very much difference to it. I remember making --
- Q. Well, the context that she took your remarks that she recalled "Why her, why not me, I was there just as much as she was", was that you were grieving like a mother over a lost child and, quite frankly that doesn't really fit with the comments you recall.
- A. Well, Susan Nelles was a member of my nursing team.
  - O. Yes.
- A. And was one of my nurses that was charged with murder of a baby.
- Q. Well, there was no real love lost between you and Susan Nelles over the nine months prior to that, was there?
- A. I considered Susan a friend.

  I admired her and I do consider her a friend.
- Q. She was the only person, as you indicated yesterday, that you had difficulty getting along with.



A. Yes, but I don't know how to
explain it to you. We had problems at the beginning
we were two different people with two different
personalities. We discussed this, we talked about
it and I thought our relationship was well after
October, that we got along well, that we respected
each other.

- Q. Although, as you have indicated, your differences carried on into 1981.
- A. Well, as I said yesterday that they were very slight differences about very small examples about taking a patient or admitting a patient or going to second coffee rather than first coffee.
- Q. Well, coming back to the point then. We have Miss Brownless who viewed your reaction as akin to grief of a mother over a lost child, and I take it from what you are saying that that doesn't ring a familiar bell with you, that's not the way you perceived yourself as reacting to the situation?
- A. I saw myself as a team leader where one of my nurses was charged with murder and that's very hard to accept or realize.
  - Q. I gather from what you said



that you thought that the police had charged the wrong person with murder, did you?

A. I thought it was a mistake, that I couldn't comprehend murder, this was unthinkable.

Q. Well, ma'am, is the reaction that Janet Brownless perceived in you, grief like a mother grieving for a lost child, accurate as far as you are concerned on your own perception of yourself that day?

A. I don't know if I would agree with that statement. It was a nurse, she was a friend and homicide was here and I really don't know what I was feeling that day.

Q. But you don't think it was grief like a mother for a lost child?

A. No, I don't think I would have or could explain it in those terms, no.

- Q. Because that would really be pretty strange, wouldn't it?
  - A. Yes, I guess so.
- Q. Given the relationship that you and Susan Nelles had over the prior months.
  - A. Well, I considered her a friend.
  - Q. By the way, how is it that you



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recall so clearly your comment to Janet Brownless. You have expanded on it and really changed it quite significantly here from what she told us. How is that you recall that?

A. I can remember saying it to Staff Sergeant Sangster after he told me that Susan was arrested for first degree murder.

Q. I see. You told Staff
Sergeant Sangster what you had said to Janet Brownless?

A . Staff Sergeant Sangster told me that Susan Nelles was charged with murder and I said that that can't be possible, I was there all night with Bertha Bell and everybody else, there has to be a mistake. You have to understand that when the police came to my house that morning they had told me that this was an investigation and that there were teams going out to everybody on our nursing team.



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Q. I'm sorry, I don't want to cut you off on anything that you want to say, but are we talking about the same conversation here? I have been asking you about your recollection of a conversation with Janet Brownless.

A. Yes, I am. I'm trying to explain it.

 $\Omega$ . You are telling me about something you said to Staff Sergeant Sangster?

A. Yes.

 $\Omega$ . Which I take it must have been well before Janet Brownless arrived at your house?

A. It was an hour before.

 $\Omega$ . All right. Let's go back, if you will, to my question. How is it you recall so clearly for us --

MR. THOMSON: The witness is entitled to answer the question, Mr. Commissioner.

MR. HUNT: I certainly didn't want to hear a recitation of what the police told her.

THE COMMISSIONER: There is a little trouble because we were getting into perhaps Phase II. I don't want to interfere in this debate you are having with Mr. Hunt.



explain.

Are you telling us it is because of something you said to Sergeant Sangster that you then assumed you said the same thing to Janet Brownless? Is that what you are getting at?

THE WITNESS: No. I know what I said to Janet Brownless, but I also remember saying it to Staff Sergeant Sangster.

THE COMMISSIONER: It really doesn't help Mr. Hunt's problem. He wants to know why you remember it so well. Is it something to do with the fact that you said it to Sergeant Sangster or is it something else?

THE WITNESS: Yes.

THE COMMISSIONER: How do you know that you said it to Janet Brownless?

THE WITNESS: I think maybe if I

THE COMMISSIONER: All right. You just go ahead and explain and tell the whole story and we will see where it stands.

THE WITNESS: When Staff sergeant Sangster and John Murray came to my house that morning, they had told me --

THE COMMISSIONER: That is the morning I take it of Susan Nelles --



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big day.

THE WITNESS: March 25th.

THE COMMISSIONER: That Susan Nelles

was arrested.

THE WITNESS: Yes.

THE COMMISSIONER: Yes.

each member of our team. There were two police officers sent out and this was an investigation but they were going to talk to everybody and get all the information together. They were then going to go back to the Hospital and all the teams were going to sit down and discuss it. Now at 2:30 when Staff Sergeant Sangster told me that Susan Nelles was charged with First Degree Murder, I said, "There has to be a mistake. I was there as well and Susan was there." I don't know if that is any clearer to you or not.

MR. HUNT: Q. No, it is not at all, because my question is: How do you remember what you said to Janet Brownless? Is it because you have a recollection of what you said to Staff Sergeant Sangster?

- A. No. March 25th was a very
- Q. It must have been very



upsetting to you.

A. Yes. I didn't have police officers come to my door in the morning. I have never been interviewed by Homicide before, so I remember that day very clearly.

Q. Did you make a note at all of anything you said to anybody?

A. I made notes of what I had said to the police, to Staff Sergeant Sangster and Murray, and I think you have them as exhibits.

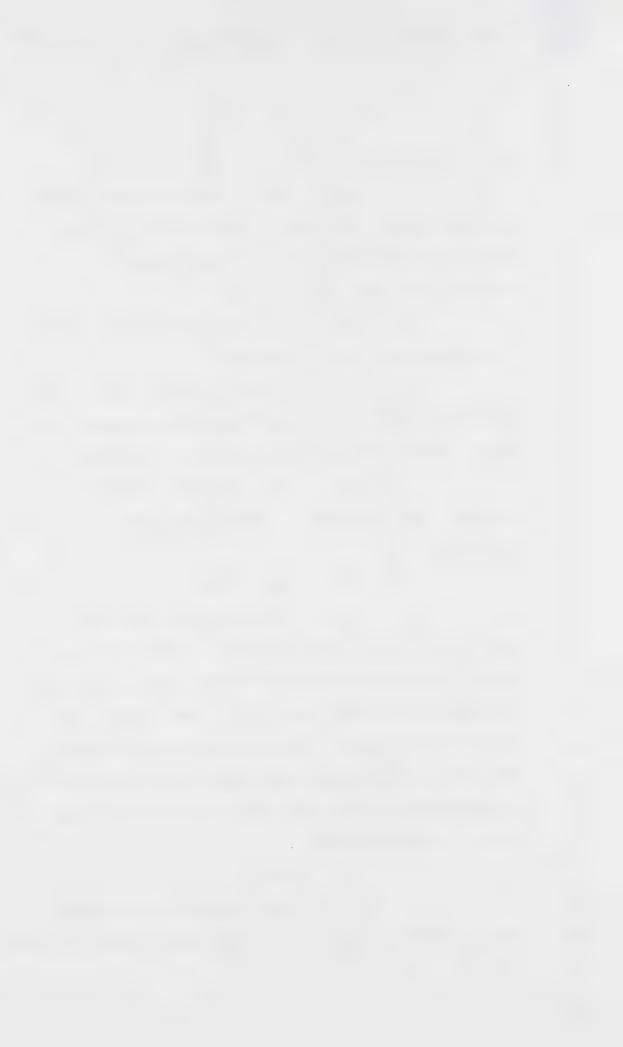
Ω. Did you make any note of the comments that you made to Janet Brownless? I wouldn't think so?

A. No, I didn't.

Ω. So again what you seem to be saying is that you have no notes to refresh your memory about the conversation with Janet Brownless; you recalled it quite precisely. The reason you recall it so clearly has something to do with the fact that you had made some other comments to Staff Sergeant Sangster at 2:30 about your view of the arrest of Susan Nelles?

A. Right.

 $\Omega_{ullet}$  Well then this is a case I take it where if Janet Brownless recalls the conversa-



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tion quite differently, and the comment quite differently, that you and her are at odds over that?

A. Well I remember what I said, and if it is not the same as Janet Brownless then I quess we are at odds.

Ω. Now Miss Brownless also told us that she came back to your house on the Friday night - I think your husband was away for the evening or for the night, and you were there alone and she was concerned about you in light of your reaction to the arrest on Wednesday, and when she arrived with her mother you were, appeared to be obsessed with news of this arrest and you were in front of the television flipping from one news broadcast to another and that you had, in the room or somewhere close by, newspapers, all the newspapers had been saved, giving accounts of the arrest and the events at Sick Children's Hospital; that her mother was so concerned about your state at that point that she advised you to turn off the television set and throw out these newspapers and forget about this concern over the arrest. Does that strike a bell with you?

clarify that Janet Brownless wasn't concerned about

my reaction on Wednesday. The reason she came over

Yes. I think we should

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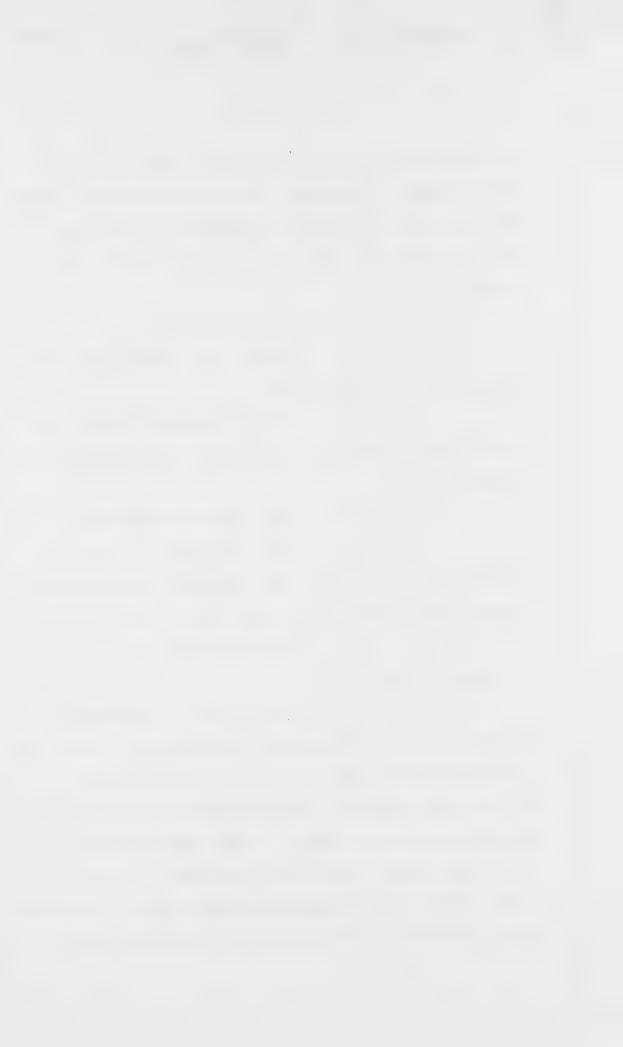
was that she had spoken to Liz Radojewski on the Friday night and Mrs. Radojewski had asked her to give me a call or come over.

- $\Omega$ . Mrs. Radojewski was concerned about your state?
  - A. Yes.
- $\Omega_{ullet}$  And so as a result of that conversation Janet Brownless came to see you?
  - A. Yes.
- Ω. I guess that is because she was also concerned about your well=being?
- A. Well Liz Radojewski had asked her if she wasn't doing anything to go over.
- $\Omega$ . So they were both concerned about your well-being?
  - A. I guess so, yes.
- $\Omega$ . But other than that, you are in agreement with the account of Janet Brownless with respect to the state you were in when they arrived that night?
  - A. Yes, I was quite upset.
- $\Omega_{ullet}$  This is now two days after the arrest of Susan Nelles?
  - A. Right.
  - Q. And given that you agree with



this description of your condition that night, does it not sound a little bit like the description Janet Brownless gave of you on the Wednesday, like you were grieving over this like a mother over a lost child?

- A. No, it doesn't.
- $\Omega_{\star}$  How do you account for your reaction the two days later?
- A. If you remember Friday was the day that Susan was charged with three additional murders.
  - $\Omega$ . Yes, that is quite so.
- A. And I had not -- I was not contacted by anybody to tell me about the additional charges and I first heard about them on TV.
- ?. That threw you into a bit of a tailspin, did it?
- A. Yes, it did. I remember
  hearing the three children, Allana Miller, Pacsai and
  Janice Estrella, and I could not remember Susan
  Nelles being there for Janice Estrella, the night that
  Janice Estrella had died. I went over and over it
  in my mind, and I called Liz Radojewski, saying "I
  can't recall Susan being there that night." She said
  "Well, she was." And I said: "I remember very



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clearly Sui Scott calling me out for help that night for that baby." And she said "Well I think you may be mistaken" or, you know, "you are wrong". I said: "I can't remember her being there." I couldn't understand how Susan was charged with the murder if she wasn't there. I couldn't recall seeing her there at all. Liz said that she thought she was and she would look into it then after that, she would check it out.

Q. So you probably had a better recollection about the events surrounding the death of Janice Estrella that night than you have subsequently, would that be fair?

A. No. As I can recall, I remember Sui Scott calling out for help for that baby, because it was a very shriek, a shrieking call that Sui called out at the time, and I remember that there was me and Bertha, and I could not remember Susan being there for that arrest.

- Q. So even at that time, was that the extent of your recollection concerning the death of Baby Estrella?
  - A. Basically, yes.
- Q. And then this news of the further charges and your own recollections concerning



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Janice Estrella, as limited as they were, caused you to react in this manner, distraught?

A. Well I had called Liz
Radojewski and said I could not remember her being
there and, yes, I was upset.

 $\Omega_{ullet}$  Did you follow Mrs.

Brownless' advice and shut cff the TV and throw out the newspapers and go on with things after that?

A. We had had the Globe and Mail paper delivered early in the morning, and my husband had picked up the evening paper that evening, I believe it was the Star, a late edition. They were sitting in the corner. I did have the TV on when Janet Brownless came over. I don't know what I did. The TV went off that night. I don't know if I took Mrs. Brownless' advice or not, but it wasn't that there was mounds and mounds of paper.

 $\Omega_{\bullet}$  I take it the period even after Susan Nelles' arrest obviously was a very stressful one for you?

A. Yes.

Q. The stress didn't just end as far as you were concerned on the day she was arrested and something had been done to stop the deaths?

A. Pardon me?



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			Ω.	The	deaths	stopped	didn't
they	after	Susan	Nelles	was	arreste	ed?	

Well they did, but I don't Α. think I thought of it.

But I'm saying to you that even though the deaths stopped, in other words you were not under the same stress you had been under for nine months because of these suspicious deaths happening, that it continued to be guite a stressful period for you?

> Α. Yes.

Q. One of your nurses was now charged with murder.

> Yes. ۸į.

And was going to have to face a preliminary hearing some time in the fall.

> Right. Α.

 $\Omega$ . And that fact was hanging over your head, and I guess over the heads of all the other nurses on your team?

Yes. I think you have to appreciate that we were a nursing, well, a nursing profession and we had no idea what was going on, what was about to happen and there is police officers here, Homicide Squad, and one of our nurses was charged with



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murder, so, yes, it would have to be a very stressful time, very emotional time.

- Q. I am not quarreling with that or suggesting that would not be reasonable at all. I am just suggesting it continued. You knew the preliminary hearing was set for some time in the fall?
  - A. Right.
- $\Omega_{ullet}$  And I suppose there was no doubt but that you were going to be a witness at it?
  - A. Right.
- Q. And I suppose you had never been a witness before?
  - A. No, I hadn't.
  - Q. That fact would cause you

some concern?

- A. Right.
- Q. In addition to the fact that this was one of your colleagues and I suppose the tension continued to be focused on the ward itself and the Hospital as a result of these events of March?
  - A. Yes.
- Ω. And then you and to a lesser extent the other members on the team ran into the events of August, September and early October, which could have done nothing I suggest but add to the stress



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and concern?

A. Yes.

Q. And we have had some reference to these events and we will get into them to a greater extent. Is it fair to say generally about the things that happened in August, September and early October, that the concern experienced by yourself and others was heightened by the fact that as a result of the nature of the events it was clear that whoever was responsible was someone who had an intimate knowledge of the Hospital and the ward itself?

THE COMMISSIONER: You are talking

THE COMMISSIONER: You are talking about the events in the fall?

MR. HUNT: Yes.





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THE WITNESS: Yes, that was a great possibility, yes.

MR. HUNT: Q. And in addition to that it was clear that whoever was responsible had a close knowledge of you, where you live, what kind of car you drove.

A. Yes.

Q. And the stress that was created at that time I take it as a result of the incidents and the knowledge that people had or the feelings that people had about who was responsible created a concern not just for your own safety, but indeed for the safety of the patients on the ward.

A. Yes.

Q. The continued safety of the

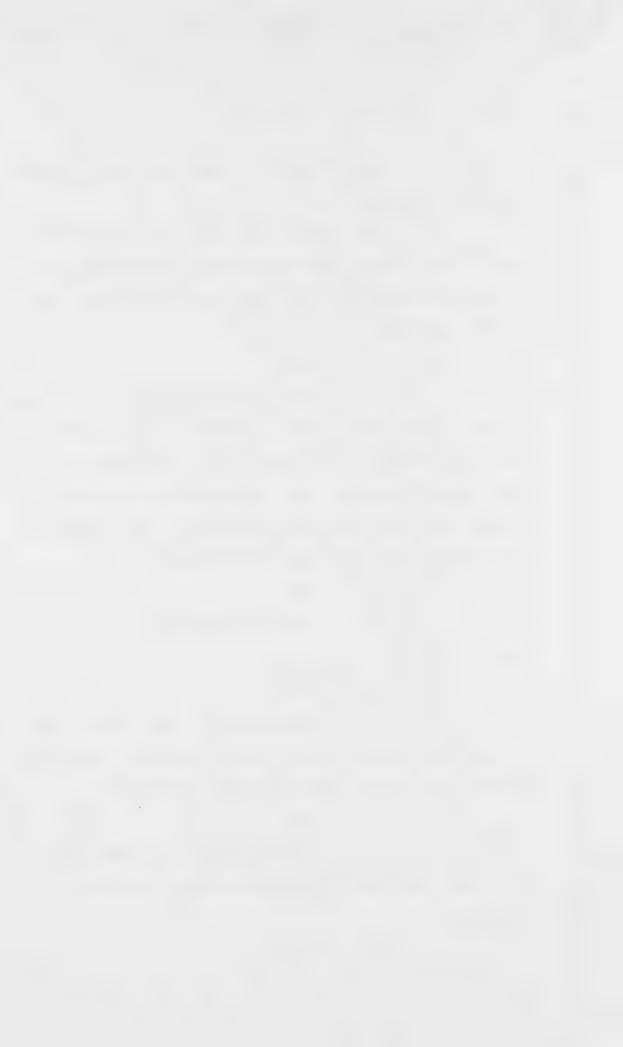
A. Yes.

Q. Because was it not clear from the nature of these events that the person responsible for them was a very disturbed individual?

A. Yes.

Q. I guess they first started with the phone calls that were received by Sui Scott's children?

A. Yes.





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Q. And as result of Mrs. Scott's evidence we know something about those phone calls and I am sure you (you can tell me if you didn't) heard about what was going on through your conversations on the ward, but to her they were both silent phone calls where no one spoke and threatening phone calls to her children.

A. Yes.

Q. And we know something important about the person responsible from those phone calls, and that I suggest is firstly that the caller was a woman by all reports.

A. Yes.

Q. And that it was probably someone connected with the Hospital?

A. I don't know if that connection was made right then. Well, probably within the Hospital, yes.

Q. Because you knew that Mrs. Scott had her number listed under her husband's initials in the phone book, and that that wasn't something that someone would find given the number of Scotts in the phone book unless they knew who they were looking for.

A. Well, I remember Sui Scott



telling me that.

Q. But her number was contained both in the personnel records at the Hospital and apparently on a list of personnel kept at the nursing station, 4A/4B?

A. 'Right.

Q. And you learned quite early I suggest that the phone calls to the children contained threats of death to both yourself and Sui Scott?

A. Yes.

Q. Would you agree with me that whoever would do that sort of thing to a couple of young children, threaten that their mother was going to be killed, was doing something that was very cruel and callous?

A. Yes.

Q. I think you agreed with Mr. Lamek yesterday that the fact that Sui Scott herself never heard a voice at the end of any line when she picked up the phone and no one ever contacted her directly that that raised at least the suspicion that the person responsible may have been concerned that Sui Scott herself might recognize the voice some way.



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2	A. That was suggested to us by
3	the police.
4	Q. And did you learn that the
5	police put a wire tap on Sui Scott's phone after
6	the report had been made to them about the calls
7	in the hopes of intercepting the caller?
8	A. Well, they had put the same
9	thing on mine as well.
10	Q. That is right. That was my
	next question. At the same time one went on yours?
11	A. Yes.
12	Q. And this was a fact that was
13	discussed amongst the people on the ward, the other
14	nurses?
15	A. Sui Scott had told one of the
16	nurses, and I remember telling her that she shouldn't
17	be telling everybody on the floor; that it should be private.
18	Q. In any event it was not private?
19	A. No. People on the floor knew
20	then.
21	Q. And this as with other
	events that happened quite quickly they became matters
22	of common knowledge around the ward?
23	A. Yes, they did.





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			Q.	A	nd	did	you	know	then	that	after
the	police	put	the	wire	ta	ap or	n her	phor	ne tha	at all	l of
the	calls	both	sile	ent ar	nd	thre	aten	ing s	toppe	ed?	

## A. Yes.

- Q. And I think you have already indicated you never received any calls directly on your phone when the wire tap was placed at your residence?
  - A. I don't think I did, no.
- Q. And again I suggest that raises the inference that the person who was responsible was aware of the fact that steps had been taken to intercept the calls once the wire taps were put on and this became common knowledge, and is a further indication that they may be someone connected with the ward?
- A. Well, that was a good possibility.
- Q. Now there were other phone calls as well received by other people, phone calls received at various points in the Hospital?
  - A. Right.
- Q. Always by all reports by a female caller?
  - A. Right.



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			Q.	And	then	the	re	was	a j	phone	cal
or	series	of	phone	calls	recei	ved	by	Liz	Rad	dojews	ski?
			Α.	Yes	5.						
			Q.	And	d you	were	av	vare	of	the	

Q. And you were aware of the superintendent of your apartment building, Mr. Laird, receiving a phone call.

A. Yes.

Q. In which there was a threat of death from a female involving you and Mrs. Scott.

A. I can remember Mr. Laird coming up to our apartment door, yes. I don't know what was said on the phone, but it was a threatening call.

Q. And again that suggests somebody with a fairly close knowledge of your personal situtation knowing where you lived, who your superintendent was?

A. Yes.

Q. And then in addition there were phone calls at your husband's place of employment?

A. Yes.

Q. Again from a female, and at his militia station?

A. Right.

Q. Where he was referred to by the



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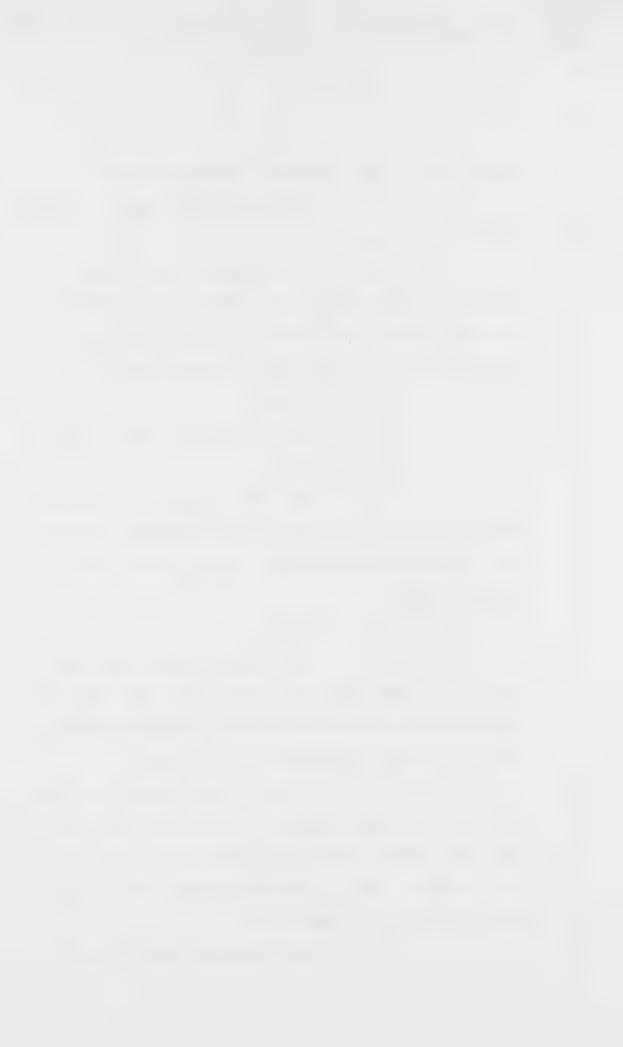
caller by his rank, Warrant Officer Trayner.

A. I know it was a rank. I can't recall what it was.

Q. In any event all of this suggests that whoever was responsible for this certainly knew a lot about you, your husband, your personal situation and about others as well?

- A. Right.
- Q. Principally the two of you.
- A. Yes.
- Q. And then finally we have the phone call that was received at your bank on August 26th early in the afternoon shortly before you arrived there.
  - A. Right.
- Q. And this not only required certain intimate knowledge of you and your personal business but also knowledge about your whereabouts that day and your itinerary, did it not?
- A. I didn't see the call as that.

  I viewed it as just another threatening call and
  they had called other places before. I didn't like I didn't take it as them knowing what I was
  doing that day in particular.
  - Q. Did you just treat it as a





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coincidence the fact that your bank manager of all people received a phone call a few minutes before you arrived at the bank?

- A. Yes, I did.
- Q. You never thought about that and wondered whether whoever was responsible for that didn't know that you were on your way to the bank?
- A. No, I don't think I thought of it at that time.
- Q. Well, at that time or ever?

  Have you not thought about that since? You appear
  to be surprisedby the suggestion.
- A. No, I have heard the suggestion before, but I didn't I saw it as a coincidence.

  There were other calls before that I couldn't give any reason as to why they would call there, and the bank was just the same; it was another one of those calls.
- Q. You must have found it very upsetting?
  - A. Yes, I did.
- Q. Surely the first thing you would have thought of after this happened was here is my chance to figure out who is doing this. Who



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knew that I was going to the bank? Isn't that the first thought that would strike you?

- A. No, it didn't.
- Q. I take it that thought never struck you until somebody some time ago put the suggestion to you?
  - A. Right.
- Q. Well, you couldn't have told that many people that day that you were planning to go to the bank early in the afternoon, could you?
  - A. No, I didn't.
- Q. So really at that point in time the people that might have been privy to that sort of information would have been a pretty short list?
  - A. Right.
- Q. And you had the golden opportunity presented to you to zero in on who might have been behind that call and probably all the other instances?
- A. Well, we phoned the police from the bank and they were going to they were the investigators.
- Q. Did you not go over in your mind the people you had spoken to that day? I mean there couldn't have been that many people that knew



I.10

you were off to the bank that afternoon. Did you not say well, I told that person or I told that person?

A. Well, I think we explained all that to the police, but I can't remember. I know we went downtown to their office.

Q. Well, who did you tell? You must surely remember that?

- A. The police officers?
- Q. Who had you told that day that you were going to the bank?

A. I don't know. I don't know if I told Liz Radojewski or not or I don't - I knew we were going to the exhibition. I thought I told Liz Radojewski that.

Q. That you were going to the exhibition?

A. Yes.

Q. What about the bank, though?
You see how important this is that the chances of
it being someone other than the person you told
you were going to the bank are really non-existent?

A. I can't remember who I told.

If I told anybody.

Q. You think you told Liz



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Radojewski you were going to the exhibition?

- A. Yes.
- Q. But you can't remember if you told her you were going to the bank?
  - A. Right.
- Q. Now, Mr. Lamek asked you if you had any explanation for the evidence of your bank manager which he put to you to the effect that you were upset before he told you anything about the phone call.
  - A. Yes.
- Q. And I take it that you have no recollection of anything having happened to you up to the point in time you were advised of the fact of this threatening phone call that you can now recall upset you that day?
  - A. No.
- Q. Now, ma'am, you gave some evidence at the preliminary hearing about the bank, Volume 5, at page 1088. This was under cross-examination by Mr. Cooper. He was dealing specifically with Susan Nelles and whether or not she would have had any knowledge about where you did your banking. It is very short. I will read it to you and if you have any difficulty I can show you.



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It begins at about line 8.

"Q. She didn't..." that is referring to Susan Nelles "...so to your knowledge Susan Nelles would have no idea where you did your banking from anything you knew, isn't that true?"

"A. I think she probably, she may have known because I was having problems getting my money from the one bank that the Hospital was putting it into and trying to get it into my branch. That was talked about on the floor with the girls."

"Q. All right. Would you have discussed where your branch was located?"

"A. Yes, I did."

"Q. And who your manager was?"

"A. Not who the manager was, no."

"Q. Not who the manager was. So that any of the girls on the floor would have known where you did your banking?"

"A. Yes."





Trayner
cr.ex. (Hunt)

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"Q. Is that right?"

"A. That's correct."

Now, ma'am, that evidence that you gave at the preliminary hearing has been disputed by a number of the witnesses who have testified here, principally Janet Brownless, Mrs. Christie and Susan Nelles herself, who all indicated that they had never had any discussion with you about your bank, where you did your banking, the branch, the bank manager and, furthermore, they had never heard the matter discussed by you with any of the girls on the floor, so that they had really no idea what you were talking about in your suggestion to Judge Vanek that your banking and where you did your banking was a matter of common knowledge amongst the girls on the floor.

Now, my question to you is, do you have any comment with respect to the fact that these other nurses that you have suggested were aware of this have no recollection of this conversation or any conversation along those lines?

A. No, I don't have any answer for that.

Q. Now, you received marks on your apartment door I think, 'Xs' with lipstick?



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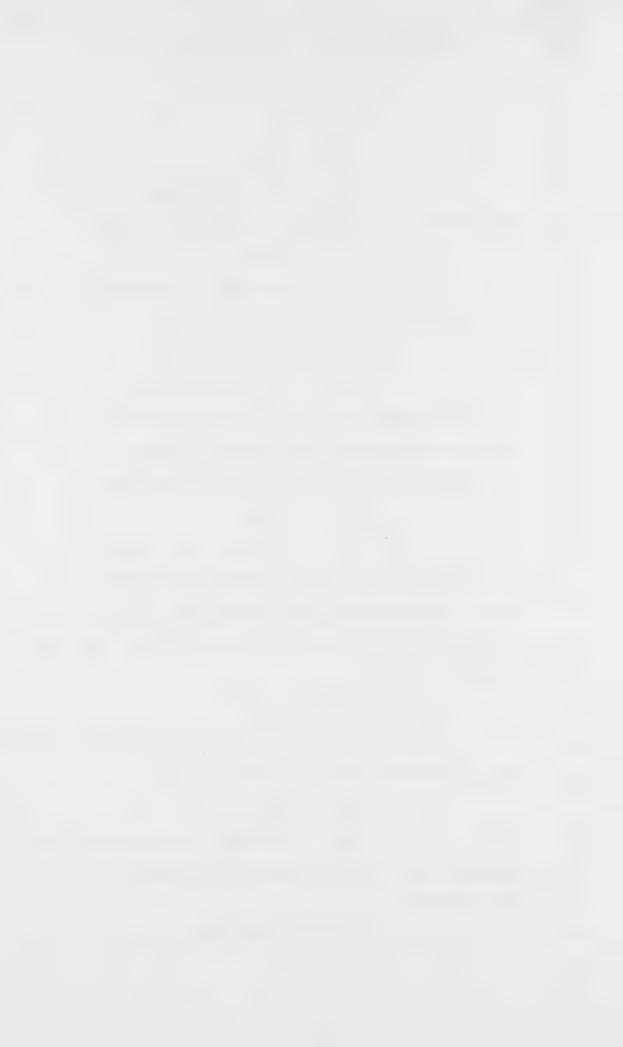
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- $\Omega_{\bullet}$  And there were also 'Xs' in the hallway on the fire extinguisher door?
  - A. Yes.
- $\Omega_{\,\circ\,}$  And this happened on a number of occasions?
  - A. Right.
- $\Omega_{\bullet}$  And that suggests does it not that the person who was responsible not only had intimate knowledge with respect to where you were residing at the time but also was very bold?
  - A. Yes.
- Ω. I mean, they ventured right into your hallway, up to your apartment door on a number of occasions and risked being caught or seen by anyone putting marks in various places they were found?
  - A. Yes.
- $\Omega_{\bullet}$  And again your car was marked on at least one occasion with an 'X'?
  - A. Yes.
- $\Omega_{ullet}$  And am I correct that that happened when it was parked in the parking lot in the basement?
  - A. I believe so, yes.



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			Q.	Ž	And w	ould	I	be	co	rrect	t tha	at
the	parking	spots	in	the	baser	ment	of	th	e	build	ding	you
were	residir	ng in	at	that	time	were	e n	umb	er	ed?		

A. Yes.

Q. But those numbers bore no relation to the apartment number that you had?

A. No, they didn't.

 $\Omega_{ullet}$  And I imagine there must have been hundreds of cars parked in the lot?

A. Yes.

Q. So that the person who marked it could not have found it simply by looking for a numbered spot that corresponded with your apartment number?

A. Right.

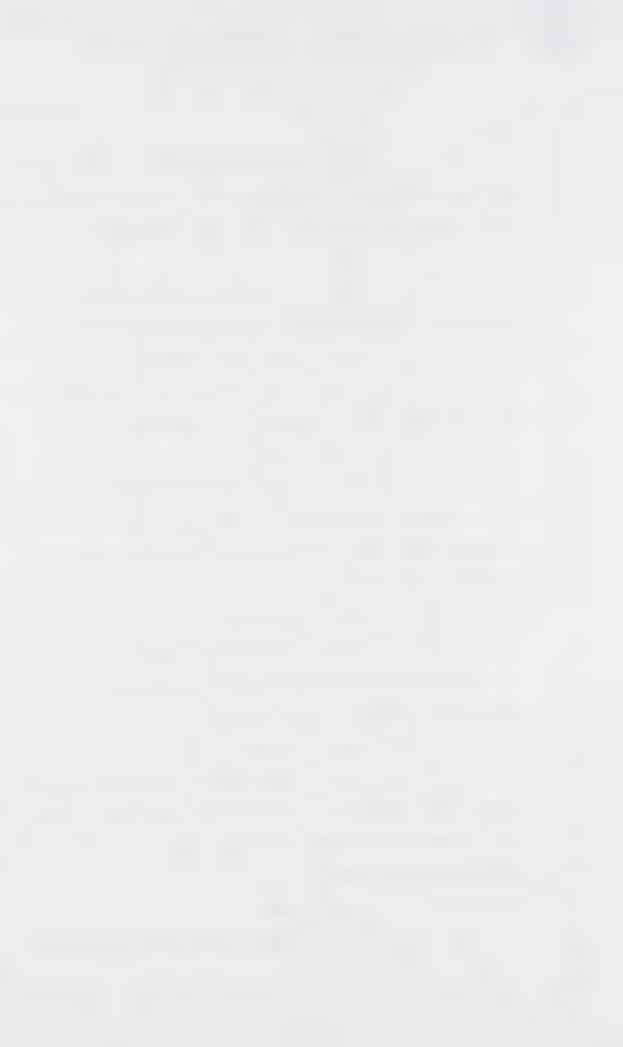
Q. They would have to look through hundreds of cars to come to this car if they didn't know which one was yours?

A. Right.

Q. And again a venture into your underground parking lot by someone would be a very bold stroke on the part of the person who was responsible for this?

A. Yes.

Q. Now, in addition to this,



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your locker in the Hospital, along with the locker of Sui Scott, and we'll deal with that in a moment, was marked?

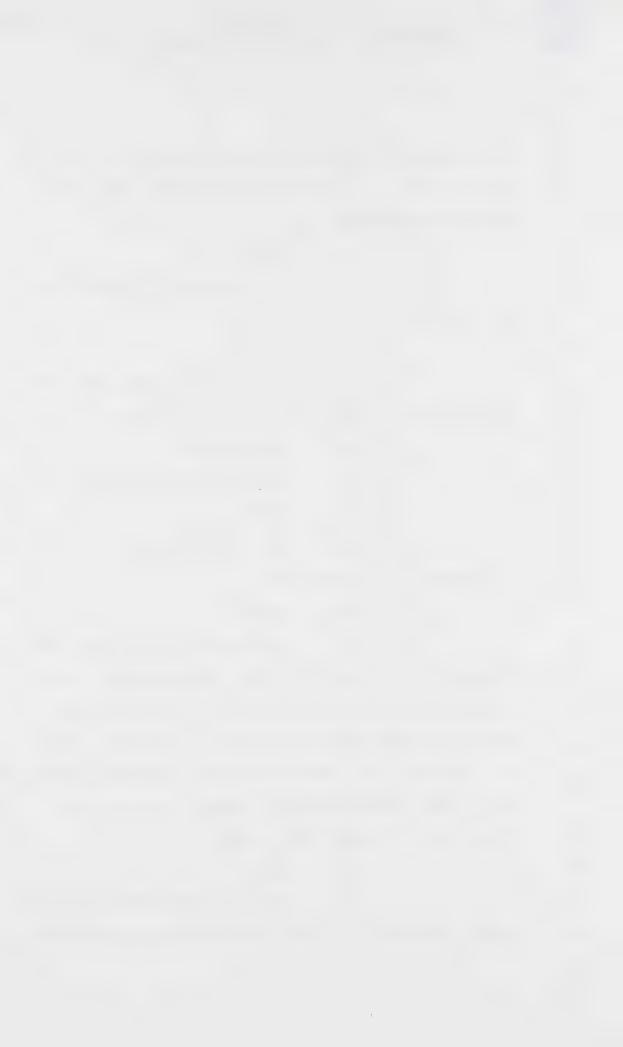
- A. Right.
- Q. And that was on more than

one occasion?

- A. Yes.
- Q. And am I correct that your name was not on the outside of the locker?
  - A. No, it wasn't.
  - Q. It was a locker number?
  - A. Yes.
  - $\Omega$ . So, whoever did it had to

know where you locker was?

- A. Right.
- O. And again coming into the Hospital in that way in order to put a mark on your locker, does it not suggest that they had to be someone who was connected with the Hospital, if not the ward, so that they would avoid arousing suspicion that would be attracted by someone unconnected being down in your locker room?
  - A. Yes.
- $\Omega$ . Now, we have heard from Sui Scott about the 'X' that she found on her basement



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recollection?

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locker, and I don't think you went down with her when she found it, I don't think it was you?

A. No.

0. I think she suggested there were two others. But in summary she said that came about when Nurse Fernandez reported to you that earlier on in the shift some time she had received a phone call that was in some way threatening but she hadn't reported it immediately to you or anyone else and she was reporting it subsequently, some time before she left the shift, that this had upset you because it hadn't been reported to you immediately and that you suggested to -- that Anna Fernandez had reported the conversation to you, to Sui Scott, that you suggested that Sui Scott go down and check her locker. She indicated that there was nothing in the conversation related by Nurse Fernandez to you and to her that suggested that there was anything wrong with her locker; in other words, what she was telling us was that you suggested to her on your own that she ought to go down and examine her locker.

Now, does that accord with your

- A. No, it doesn't.
- $\Omega$ . No. Do you have a distinct



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recollection of this event?

- A. Yes.
- $\Omega$ . All right. Can you tell us then what you recall?

A. I'm not sure if it is that same event. I remember it was Mary Jean Halpenny that had received a call, that she said it sounded like it was from within the Hospital and that it was from downstairs, there was noise she thought, and she thought it was coming from a locker room. That was Mary Jean Halpenny and Susan Reaper and Sui Scott that had gone down to look at the locker room to see if they could find anybody or see anybody. The supervisors were called and I think the police were called at that time.

Q. Well, Sui Scott's recollection of the event is, as I have summarized it for you, found in Volume 118, page 6994, and Volume 119, page 7080 to 7087, and her recollection is that this call was something that didn't involve Mary Jean Halpenny but it involved Anna Fernandez reporting it to you and to her about the phone call at a time some time after it happened and then, as a result of suggestions, repeated suggestions by you, she went down and checked her locker. Do you have any



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recollection of an incident like that happening?

A. No, I don't.

Q. I take it you are not prepared to dispute Sui Scott's recollection then that that's what happened?

MR. STRATHY: Mr. Commissioner, I would like to check the evidence of Nurse Halpenny at the preliminary. I don't have it in front of me but my recollection of it on this point is that it accords with what Mrs. Trayner has said.

MR. HUNT: I'm not disputing what

Mrs. Trayner said about an incident. I'm talking about
an incident that was related here.

THE COMMISSIONER: I think what Mr.

Strathy was saying was it was time we broke for lunch.

MR. HUNT: Oh. Oh, I was slow on

the uptake, but I will now.

THE COMMISSIONER: Until 2:15 then.

--- luncheon recess.



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--- Upon resuming at 2:15 p.m.

THE COMMISSIONER: Yes, Mr. Strathy.

MR. STRATHY: Mr. Commissioner, just before we broke I was referring to the evidence of Miss Halpenny at the preliminary inquiry. It is found in Volume 9, page 57 and I don't think I need to read it in any verbatim, except perhaps to summarize. It is to the effect that Miss Halpenny did hear a call one night about 4 o'clock in the morning, nobody talked but she was curious because it appeared to have been placed from inside the Hospital. She ran down to the locker room with Miss Reaper where she knew there was a phone available, and found that there had been made a mark on Mrs. Trayner's locker. That seems to conform with the evidence just given by Mrs. Trayner before we broke. It is not to say it is the same evidence that Mrs. Scott is talking about, but it does conform with Mrs. Trayner.

not sure that I understand it, I wouldn't know where it is, but who was it that ran down?

MR. STRATHY: Halpenny and Reaper and I think that's the incident --

THE COMMISSIONER: Is this the same



date?

MR. STRATHY: It is not clear what the date is, it may well have been a different incident.

THE COMMISSIONER: Yes. All right.

Thank you. Well make of it what you will, Mr. Hunt.

MR. HUNT: Certainly.

Q. Does that assist your recollection now, Mr. Strathy reading to you from the evidence of Mary Jean Halpenny?

A. I can recall that incident quite clearly.

Q. That is the one you were thinking of before lunch?

A. Yes.

Q. And that is quite clearly a different one than the one Sui Scott is talking about, because in this incident as related by Mary Jean Halpenny when they went down they found the X on your locker.

 $\hbox{A.} \qquad \hbox{As I recall there was an X}$  on Sui Scott's locker at that time as well.

Q. Did you go down?

A. No, I didn't go down, I was just told.



	Q.	So	you	don't	really	hav	e any
recollection	of that,	do	you,	going	g down	and	seeing
an X on the	locker at	any	, tim	ne?			

A. I know I didn't go down at that time. I knew I had gone down later with the security guard when he was called and we went down.

Q. The incident she recalls as I summarized it for you before lunch is it simply involved her locker, and she herself went down and found the X along with two others, but she went down and found it. I am suggesting to you that it is quite apparent that really the two of you are talking about different incidents.

A. Okay.

Q. So you have no recollection one way or the other as to this incident that Sui Scott has told us about?

A. No, I don't.

Q. So you are not really in a position to dispute with her that it occurred?

A. Right.

Q. If it occurred as Mrs. Scott has told us about, do you have any explanation for why you suggested that she go down and check her locker?



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A .	No,	Ι	don	't

- Q. Well now we have heard as well from a number of people about the early morning hours of September the 25th, 1981 when you and Sui Scott discovered pills that turned out to be Propranolol in your meals.
  - A. Yes.
- Q. And what is your recollection of that?
- A. I remember going down with Mary Jean Halpenny, and I think it was Mary Lyn Barnett as well to heat up the soup. Sui and I had discussed earlier that we would share the soup and the salad.
- Q. I'm sorry, you discussed it earlier in the evening?
- $\hbox{A.} \qquad \hbox{Yes.} \quad \hbox{It was either $\hbox{$-$}$ I guess}$  the night before too.
  - O. Pardon?
- A. It was the night before the morning before we had gone home that we would probably share some soup and salad.
- Q. So you discussed this quite some time ago?
  - A. I think so, I am not sure.



Q. I see.

A. I can recall going down to the main floor to heat up the soup with, as I said,
Mary Jean Halpenny and Mary Lyn Barnett and coming up to the floor and sitting down with Mary Lyn
Barnett and Mary Jean Halpenny and myself and Sui
Scott to have lunch, or dinner. I can remember a doctor that we had called for earlier to start an
IV came shortly after we had sat down and Mrs. Scott had gone into 418 to help the doctor start the IV and I was at the desk with Mary Lyn and Mary Jean, eating. I had had some of the soup and then I had noticed some pills in the soup.

Q. Yes.

A. I can remember pushing away the soup and Mary Jean Halpenny making a remark like "What's wrong? Is there a X at the bottom of the bowl?"

O. Yes.

A. And I remember Mary Lyn

Barnett going in to get Sui Scott, and Sui Scott

coming out and I can recall Mary Jean Halpenny

phoning Liz Radojewski at home in the morning, and

when Liz came the police were called and they took

some samples and a doctor was called down from



whoever was covering our floor and he took some
blood samples and our blood pressure and suggested
we just go over to the Toronto General. I remember
going over with Liz Radojewski and having an
examination over there, and then coming back to
work and then going home.

- Q. Certainly an upsetting event?
- A. Yes.
- Q. One I am sure you have been over many times in your mind thinking about it.
  - A. Yes.
- Q. And what you have given us here is the extent of your present recollection of the whole incident?
  - A. Yes.
- Q. Well now, just to ask you one question before I go any further with it. You definitely remember some arrangement that extended back to the night before when you had agreed with Sui Scott to share soup and salad the next day?
- A. I am not really clear, I don't know if it was just the time when we came in. We used to order a lot of food into the Hospital and we were getting a little tired of the selection that we had. It must have been that evening Sui had



asked me what I had brought in, and I said "som
soup"; and she said that she had some salad and
that we could put those two together instead of
ordering in salad or something else.

- Q. So now you don't think it was the night before that you made this arrangement?
- A. No, I am pretty sure it was that evening when we got to the floor.
- Q. It wasn't the night before, it occurred on that evening, that is your best recollection?
  - A. Pardon me?
- Q. The arrangement wasn't struck the night before, it occurred that evening?
  - A. Right.
- Q. Now the size of the area that we are dealing with here, it is that area in behind the nurses station to begin with, is it not, where this occurred?
  - A. Yes.
- Q. That area it is not a cafeteria sized area?
  - A. No.
- Q. It is an area big enough for a couple of tables?



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2	A. Yes.
3	Q. If I suggested to you it
4	was about, oh, a total of approximately 16 feet wide
5	by about 10 feet long, would that sound about right?
6	A. I really don't know, it wasn't
7	a huge place.
8	Q. And there were two tables
9	there at the time?
10	A. Yes.
11	Q. Do you recall where you were
	seated?
12	A. We were sitting at the table on the 4B side.
13	Q. Mrs. Scott's recollection was
14	that you were at one end of the table and she was
15	seated beside you on the other side of the table.
16	A. Yes.
17	Q. Does that accord with your
18	recollection?
19	A. Yes.
20	Q. Was there anyone else at your
21	table?
22	A. Mary Jean Halpenny and Mary Lyn
23	Barnett. Q. They were all there?
	Z. THEY WELL GIT CHELE:



A. Yes.

Q. Do you recall anybody else in the area eating at the other table?

A. I'm not sure if Mrs. Christie was there at the time, or was coming in for dinner. I can't specifically recall her being there at that time at the table.

Q. Now we have heard from Sui Scott with respect to her recollection as to what occurred that night, and she has indicated that she brought from home her lunch which consisted of a salad and some sandwiches, the salad being in a plastic Tupperware container and she brought separately some salad dressing which she kept in the fridge. That at approximately 2 o'clock in the morning or so she got her dinner from the fridge and she sat down at the table with her salad, she tossed her salad with the salad dressing on it;



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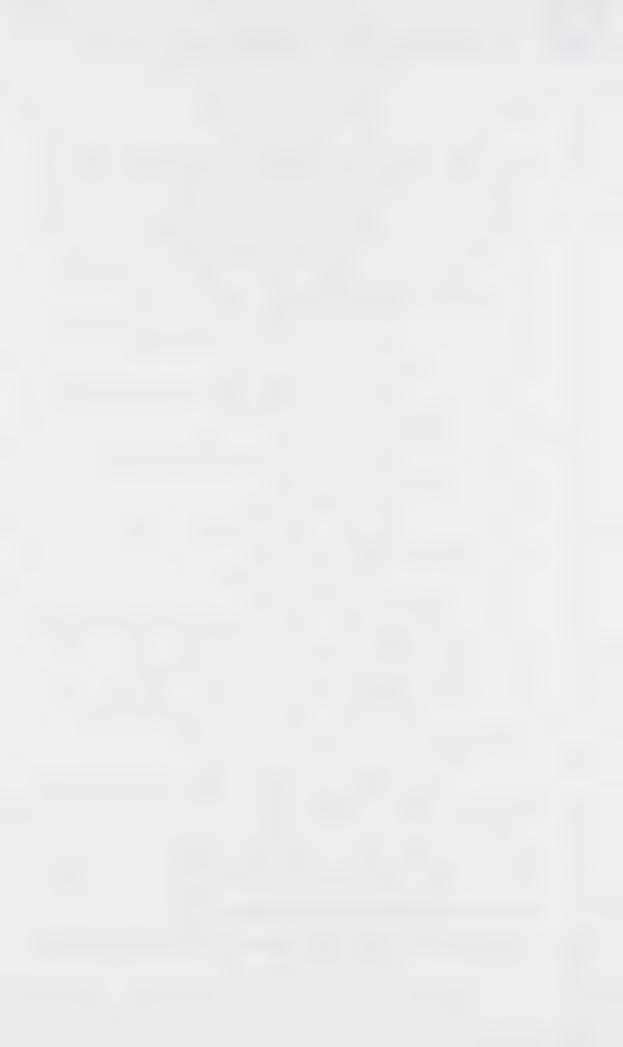
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that you came and sat beside her or at the end of the table, beside her but at the end; that you had some soup in a plastic container; that you offered her some of the soup which you told her was cold because the microwave wasn't working.

- A. Well, it wasn't extremely
- $\Omega_{\bullet}$  Well, the microwave hadn't heated the soup.
- A. Well, it had heated it but it wasn't very --
- Q. Oh, I see. It wasn't cold soup as far as you can recall?
  - A. Right.
- $\Omega$ . All right. And she took the spoon and stirred the soup to see what kind, and it was a chicken type soup, noodles or vegetables in it.
- A. It was a chunky chicken vegetable.
- Q. Now she offered you some of her salad, and a doctor came by who was going to start a child's intravenous and she left and went with the doctor. She was approached by someone in the room and told she had better go back to the nursing station; something had happened, and she was away



BB2

approximately ten minutes during this time period, and when she came back you were quite upset pushing away the salad and the soup, and she looked in the salad and she saw five or six small pinkish-orange pills, some of which did not appear to be wet to her from the salad dressing, and she stirred the soup, your soup, using the spoon that was there. She saw four or five of the same type of pills in there that did not appear to have dissolved very much at that point in time.

Now obviously she has indicated she recalls certain more of the events prior to leaving the room to go and start the intravenous concerning the soup and the salad than you do, but the net effect of her evidence on that point is that prior to leaving the table she had both tossed her salad and stirred your soup to see what kind it was, and in neither at that point did she see any pills.

Now we have also heard from -- I'm sorry, we haven't heard from Miss Halpenny but we have available her evidence given at the preliminary hearing as to what her recollection is. At Volume 9, page 50, she commences. I will just read this to you. It isn't terribly lengthy. About line 20:

"Q. All right. Would you tell



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His Honour about that one, please." The night we were sitting around eating lunch, I am not sure, I can't remember the time of it, and I was sitting across from Mrs. Scott's lunch and Mrs. Trayner got up and walked from the end of the table over to, to look through Mrs. Scott's lunch and she just had a blank look on her face. So I was kidding her about it and she just stood up and couldn't speak, and what we found out was that there were pills in Mrs. Scott's food and we went back and there were pills in Mrs. Trayner's food."

And then at page 71 she dealt further with that. She was asked:

> "Ω. Well, at what point did Phyllis Trayner go blank?"

"A. Sui was gone out of the room and Phyllis got up and walked over to Sui's food and was looking through it."

"Q. Was looking through it? Prior



Trayner
cr.ex. (Hunt)

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BB4 <b>2</b>	to that had Phyllis Trayner tasted
3	any of Sui Scott's food?"
4	"A. Not that I know of."
5	"Ω. Did it look strange to you
	for Phyllis Trayner to get up and
6	start she would have to get up
7	from the end of the table and walk
8	down some distance and then rummage
9	through Sui Scott's food, is that
10	right?"
11	"A. Yes. I wonder"
10	And then there was an interruption by Mr. McGee:
12	"MR. McGEE: She didn't say 'rummage
13	through'."
14	"MR. COOPER: Well, I'm sorry. That
15	is a colourful way of saying she
16	looked through the food."
17	"THE WITNESS: Right."
18	And then Mr. Cooper continued:
19	"Q. Did she say anything?"
20	"A. No, she didn't. I asked I
	was wondering what she was doing.
21	"Q. That's a pretty strange thing
22	to do, to go when you are rummaging
23	you are just did she have a spoon
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or something and digging around in the food?"

"A. She had a fork I think."

"Q. She had a fork? She wasn't tasting the food, she was looking through it; is that right?"

"A. Yes."

"Q. Was there anything she said to you that gave you to understand that there might be something in that food before she went and looked?"

"A. No, because it was -- no, no."

"Q. Did she have to take the lid off the food before she looked?"

"A. No."

"Q. Did she look in your fcod?"

"A. No."

"Q. Did she look in anyone else's food?"

"A. I can't remember if there was any food sitting there."

"Q. But the only person's food who Phyllis Trayner went over to look at was Sui Scott's; is that right?"

"A. As far as I can remember."



BB6

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"Q. Yes. And Sui Scott hadn't gone down to the microwave oven with you and the other persons?"

"A. I can't remember her going down."

Now, Mrs. Trayner, the evidence of Sui Scott is to the effect that prior to leaving this table she observed nothing after tossing her salad or stirring your soup. Ten minutes later she is called back and she has found pills in her salad, some of which aren't wet according to her from the salad dressing, and she stirred your soup and she has found pills in the soup that do not yet appear to have dissolved.

Now the inference from that evidence of Mrs. Scott is quite clearly that the pills went into her food and your food after she left the table to go down and examine the child. Do you have any explanation to offer for that?

A. No, I don't really. Three of us were at the table the whole time.

Q. You don't appear to have any recollection of what you did after Sui Scott left the table. Does my reading to you of Mary Jean Halpenny's evidence concerning your activity refresh



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your memory at all?

A. I know I had some of my soup and then I went over to get some of Sui's salad.

Q. She has described your action of going over to Sui's salad as being somewhat strange to her. She wondered what you were doing as you took a fork and went through the food. Do you have any explanation for that?

A. No, I don't.

Q. Mrs. Trayner, you see the significance of this, don't you, that if Mrs. Scott is right and the pills went into the soup and the salad in that ten minutes after she had been away from the table, it had to happen at a point in time when you were right there.

A. Well, there was three of us at the back of the nursing station.

O. That doesn't take away from the fact that you were right there in front of your own soup and beside -- down the table from Mrs.

Scott's salad.

A. Right.

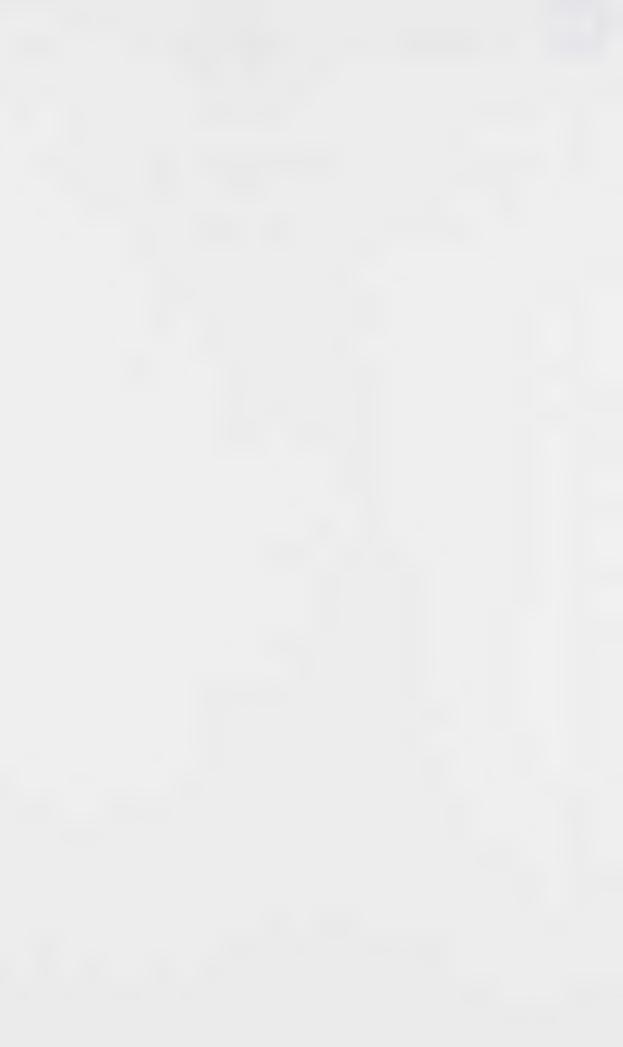
Q. I am asking you do you have any explanation as to how the pills, if she be right,



BB8 2

got into your soup and her salad in that period of time?

A. No, I don't.



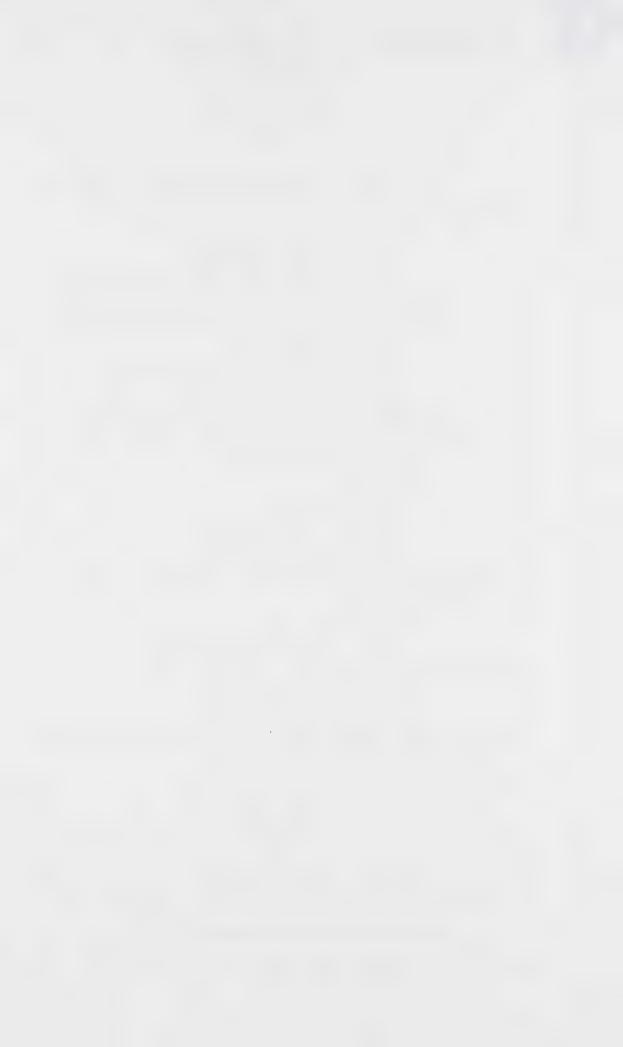
and salad?

BM/ak

Q.	Did	you	put	them	in	your	soup

- A. No, I didn't.
- Q. You were under a lot of stress at that point in time I think you have indicated?

  A. Yes.
- Q. Stress from the events not only of the deaths but of the events leading up to the preliminary hearing which was to start in a couple of weeks.
  - A. Right.
- Q. Did you find that the stress you were under at that point in time was affecting you in any way?
- A. Maybe not sleeping as well, maybe not eating as much. I don't know.
- Q. Did you feel at that point in time that you needed assistance or reassurance from anybody that you weren't getting?
  - A. No, I didn't.
- Q. You see the importance of this, Mrs. Trayner, is, it is certainly likely that the person who put the pills in your soup and Sui Scott's salad is the person responsible for all of these other bizarre incidents that occurred in



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August and September and, indeed, into October, isn't it?

## Yes. Α.

And here is a case where on the evidence we have it had to happen in a small space where there were only a limited number of people and in an extremely short period of time.

A. I have no explanation for you, only that I did not do it.

O. Well, at that time did you wonder who amongst the group of you there could have done it?

MR. STRATHY: Well, just one point I think needs to be clarified, Mr. Commissioner, and that is this. It seems to me Mr. Hunt's inference or suggestion that this event had to happen in this certain period of time but it is nothing more than Mr. Hunt drawing an inference from the evidence which may or may not be an appropriate inference to draw. So, to suggest that it had to happen during that time, in my submission is not necessarily an accurate reflection of the evidence. Quite apart from that, the witness has given her answer now twice to Mr. Hunt's question.

> Yes. Well, apart THE COMMISSIONER:



entirely from the relevance of this evidence, and

I don't want to say anything about it at the moment,
but I think the cross-examination is legitimate.

Mr. Hunt is drawing an inference and the witness
doesn't need to agree, you will get an opportunity
to re-examine when the time comes and you can
suggest another inference to it, that's all right.

I realize that counsel must not misstate the evidence
but when he is drawing an inference he puts it to
the witness, the witness either accepts it or she
doesn't.

MR. STRATHY: Well then, perhaps it should be put as a fact not as a statement or a preface with an 'if' rather than as a fact.

put the proposition to her that if the Scott evidence is correct then the pills must have been placed in the soup and the salad within the 10 minutes that she was away with the doctor fixing up the IV, one that she can accept or not accept if she wants but I think he's got a right to put the inference to her and then go on with it. But I accept the fact that the inference isn't mandatory.

MR. STRATHY: Right.

MR. HUNT: Thank you, sir.



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				Q.		Mrs	. Tı	cayr	ner,	did	it	stri	ke
you	at	the	time	to	WO	nder	as	to	who	amor	ıgst	the	
grou	p.	that	was	the	ce	was	resp	pons	sible	for	th	is?	

Α. Well, I didn't believe it to be anybody, like, Mary Jean Halpenny or Mary Lyn Barnett, anyone that was sitting at the table at the time. I had no idea when these pills were put into the soup and the salad.

0. Well, ma'am, we have the evidence of Mrs. Scott that some of them weren't even wet from the salad dressing that she had put on when she tossed her salad, that the pills in your soup hadn't even yet begun to dissolve to any extent. Surely you must have wondered at that point as to when they went in and concluded that it must have been very shortly before they were discovered?

My assumption was that they had gone in before because I was there with Mary Lyn Barnett and Mary Jean Halpenny.

Well, how long did you think Q. they would last in your soup before they would dissolve?

Α. I don't think I ever thought of that. I just felt that they were put in some time during the evening.



	Q.	Did	you r	never	sit	down	with	l
this incident	and wre	stle	with	it ar	nd tr	y to	come	<u> </u>
to a conclusi	on as to	who	it mi	ight h	nave	been	who	was
responsible f	or it?	I mea	an, yo	ou had	d bee	n to	ment	ed:
by incidents	like thi	s for	ove	c a mo	onth	at th	nis	
point.								

- A. Oh, yes, we had. We sat down with the police and wondered but we didn't have any answers.
- Q. Well, you yourself though you were one of the people directly affected by it?
  - A. Yes.
- Q. Did you not wonder where they came from, the confined space that you were in and the time that had elapsed from when you sat down with your soup to when they were discovered?
- A. Yes, I wondered, but I had no answers.
- Q. I see. Well, of all the events that had occurred up to that point in time surely this would have to be the boldest stroke of all for the person responsible to actually put drugs into your food and one of the other nurses' dinners right there on the ward?

A. Yes.



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			Q.	And	these	C	ontai	ners	that	they
were	in	I	understand	were	kept	in	the	frid	je?	

- A. Yes, they were.
- Q. On the ward. Sui Scott has indicated that she had no identifying marks on her container and that she didn't believe you had any on yours?
  - A. Right.
- Q. So that whoever put the drugs into the food, if it happened as you say before the food was on the table, had to know whose food was in what container in order to get the right ones, didn't they?
  - A. Yes.
- Q. And doesn't that suggest an incredibly intimate knowledge of the happenings on the ward and the property that you and Mrs. Scott had?
  - A. I'm sorry, I missed that.
- Q. I mean, it shows that somebody has an incredible knowledge of what was your property, what was hers and of the things that went on on the ward?
  - A. Yes.
  - Q. So, we are really, in terms of



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TORONTO, ONTARIO

Hospital.

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narrowing this down, getting to a fairly select group of people, aren't we?

- Well, people within the Α.
- It had to be a little more Q. select than people within the Hospital, we are now to an incident that had occurred right on Ward 4A/4B, right at the nursing station and involved your food, Sui Scott's food at a time when other people were present.
  - A. Right.
- So, I am suggesting to you to be able to pull that off without being caught or raising suspicion suggests that we have now got down to a very select group of people who were in a position to do that.
  - Α. Okay.
- Q. And those people principally would be the ones who worked on 4A/4B at that time.
- Α. Well, that would be a possibility, yes.
- Now, Sui Scott also told us Q. that she went over to the Hospital and she went through an incredibly distressing procedure of a gastric lavage, she was sick of her stomach and she



came out after undergoing this and you were sitting there and seemed quite calm and when she asked you whether you were all through with the procedure you told her that you didn't undergo it.

- A. Right.
- Q. Why was that?
- A. Because I had already been sick over at the Hospital on 4A and 4B and when we went over to the hospital they had done the ECG, they didn't think there was anything wrong, they had asked me if I had already been sick or did I feel sick, I told them, yes, I had and they said that was okay. It was not a gastic lavage that Sui Scott had, it was syrup of ipecac and they just gave her some of that to induce vomiting and since I had already vomited they didn't feel the need for it.
- Q. Well, when you were giving me your recollection of the events of that night a few moments ago you didn't mention that you had been sick.
- A. Well, I didn't know how far you wanted me to go.
- Q. Well, you covered the trip to the hospital and back again and going home. Did you



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forget	about	that	part	that	λc	ou ha	d been	sick?
		Α.	Ţ	Well,	I	just	never	mentioned
it to v	70u.							

- Q. Well, was anyone at the Hospital with you when you were sick before you went over?
- A. No, I was in the washroom by myself; Liz Radojewski had suggested that.
- Q. In any event, you didn't take any treatment over at Toronto General?
- A. I had an ECG done, I had a blood pressure done and an examination done by the doctor on call in the emergency centre.
- Q. No treatment that involved ridding your system of anything that might be in it?

  A. No.
- Q. Weren't you a little concerned about that?
- A. No. Well, the doctor said that he wasn't concerned, there was no changes in the ECG, the blood pressure was fine and that I looked okay and he wasn't concerned.
- Q. You had one other item of food that you were going to eat that night, didn't you?



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Α.	Yes	

- Q. Some yogurt.
- A. Yes, I think it was a yogurt.
- Q. And that had been in the fridge along with your soup.
  - A. Right.
- Q. And also that was in an unmarked container, wasn't it?
  - A. Right.
- Q. And a few days later did you remember that you had the yogurt in the fridge?
- A. It wasn't until I had gone into the fridge with Mary Jean Halpenny to get something, some milk or something, and the yogurt was there and I remembered that I had brought it in.
- Q. And you connected it to the meal that you had brought in the night that the pills went into it?
  - A. Yes.
- Q. Did you wonder whether maybe there was some pills in the yogurt too?
- A. Well, I opened it, opened up the yogurt with Mary Jean and, yes, it was an orangey colour I think, I can't remember.
  - Q. So, were the police called back



down to give them the yogur	t?
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A. We had the area co-ordinator that was on the floor that night, Mrs. Pyykkonen, and we just put it in a plastic bag and left it in the fridge and I think the police picked it up the next day.

Q. You later found out there was propranolol in that too, didn't you?

A. I think so, but I can't remember.

Q. So, whoever picked out the right soup and the right salad to hit with the drugs also was able to pick out your yogurt?

A. Well, it was there, yes.

Q. Well now if you didn't have anything to do with the pills going into your soup and salad then you must have after this incident been absolutely petrified this would happen again?

A. That I was petrified that it would happen again?

Q. Yes.

A. Well, we were quite concerned, yes. The police were involved and they were investigating it.

Q. Sure, the last thing you wanted



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was to go through this again.

- A. Right.
- Q. And we have heard from Mrs. Radojewski that you, and I presume others, were warned not to put food with your name on it after this?
  - A. No, I can't recall that, no.
- Q. You don't recall being warned not to do that?
  - A. No.
- Q. Well, what did you do to protect yourself and ensure that this didn't happen to you again?
- A. Tony Warr had brought over some stickers, a few stickers from the Forensic lab and he said that we could tape them to our food.

Q. I see.

THE COMMISSIONER: I'm sorry, what would these do?

THE WITNESS: There would be seals that you could put over the Tupperware.

MR. HUNT: Q. And what was this supposed to do?

A. If the seal was broken then you would know that someone had opened it.



the fridge?

\_\_\_

Q. Did you put any more food in

that I had brought in for my food, yes. I think
there was a yogurt later on, I don't know, I can't
remember when, but it was a yogurt that I had bought
in the cafeteria with the girls at lunch and didn't
eat it at lunch time and brought it back up to the
floor and Sui Scott had no more of the stickers
and neither had I so I just put a piece of tape over
it with my name and put it in - I can't remember
what fridge it was in but I think it was in our
fridge, the nurses' fridge with the food, I don't
think it was in the juice fridge or anything.





D/DM/LN	
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		Q.	So I	have	e it	rig	ht,	you	purcha	sec
some	yogurt,	you pu	tap	iece	of t	tape	on	it	with	
your	name or	it and	then	you	put	it	in	the	frig?	

A. Yes.

Q. Wasn't that just asking for trouble?

A. Well, I put the tape on it thinking that I would know if anything had happened.

Q. Was this a piece of masking tape, or scotch tape?

A. It was a piece of white adhesive tape with my name on it.

Q. With your name on it? Wasn't that just asking for trouble.

A. Well our names were on the forensic stuff as well. What do you want me to say?

Q. I am asking you how you could, in light of what happened to you on the 25th, within two weeks, put a piece of adhesive tape over a cannister of yogurt and put your name on it and put it in the frig and expect that you were going to be safe, or that you were taking adequate precaution to see that what happened didn't happen again.

A. I thought I would be able to tell if anybody had gotten in the way the tape was put on.





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	Q.	I see. I guess in hindsight you
recognized th	nat wasn	n't the smartest thing to do?
	Α.	Yes.
	Q.	Then what happened to the yogurt?
	Α.	There was something orange in it.
	THE CO	MMISSIONER: This is the second
yogurt is it	not?	
	THE WI	TNESS: Yes.
	Q.	This is the second yogurt, this
is in early (	October	, I think around October 7th.
	Α.	It could be, I can't remember
the date.		
	Q.	And you noticed some discolouration
in it and it	was gi	ven to the police, they tested it
and surprise	, prop	ranolol was in it.
	Α.	I think so, yes.
	Q.	Very shortly after that incident
you were tran	nsferre	d to the burn unit I think?
	A.	Right.
	Q.	Is that 8E?
	A.	Yes.
	Q.	My understanding at that point
is that the h	oizarre	incidents stopped.
	Α.	I believe so, yes.

Q. You didn't have any more 'Xs'



that one?

on your car, any more drugs in your food?

A. No.

Q. And neither did Sui Scott. Did that strike you as strange when that happened?

A. That they had stopped? It had come about that the police thought it was because of the preliminary hearing being postponed to January the 6th, that maybe that has something to do with it, they really weren't sure it was just a suggestion and now we were on adifferent floor and we were away from the cardiac.

Q. There was one last wrinkle of a threatening nature, wasn't there, after you were transferred, February 19th of 1982, a phone call was received at ward 4A?

A. I don't know.

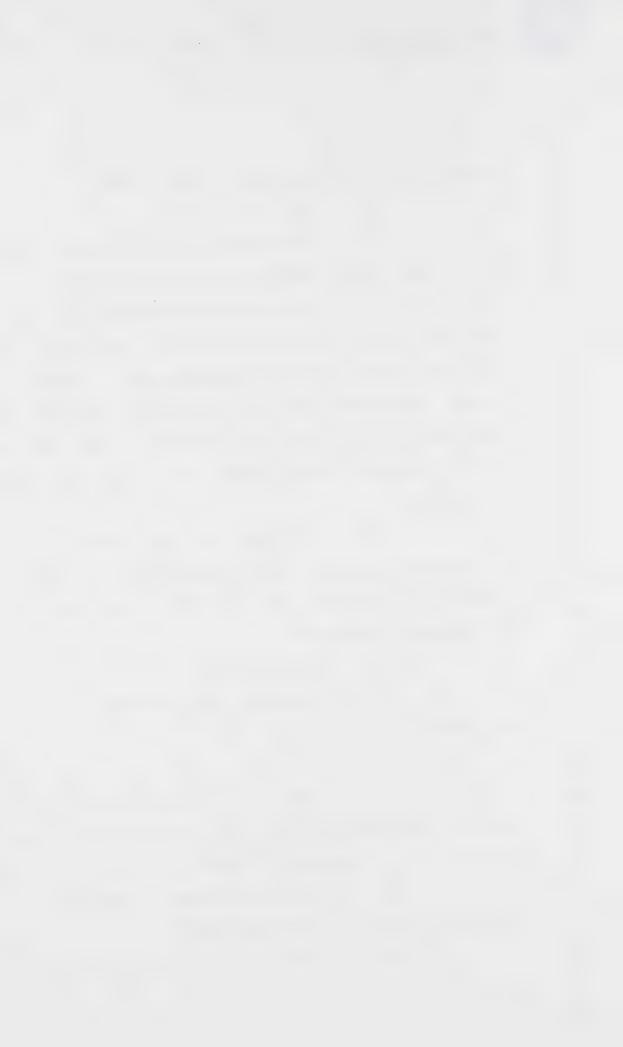
Q. You don't know anything about

A. No.

Q. That would have been about the time you were testifying at the preliminary hearing, wouldn't it, in February of 1982?

A. It may have been, I thought it started January 18th, I'm not sure.

Q. It may have been a little bit

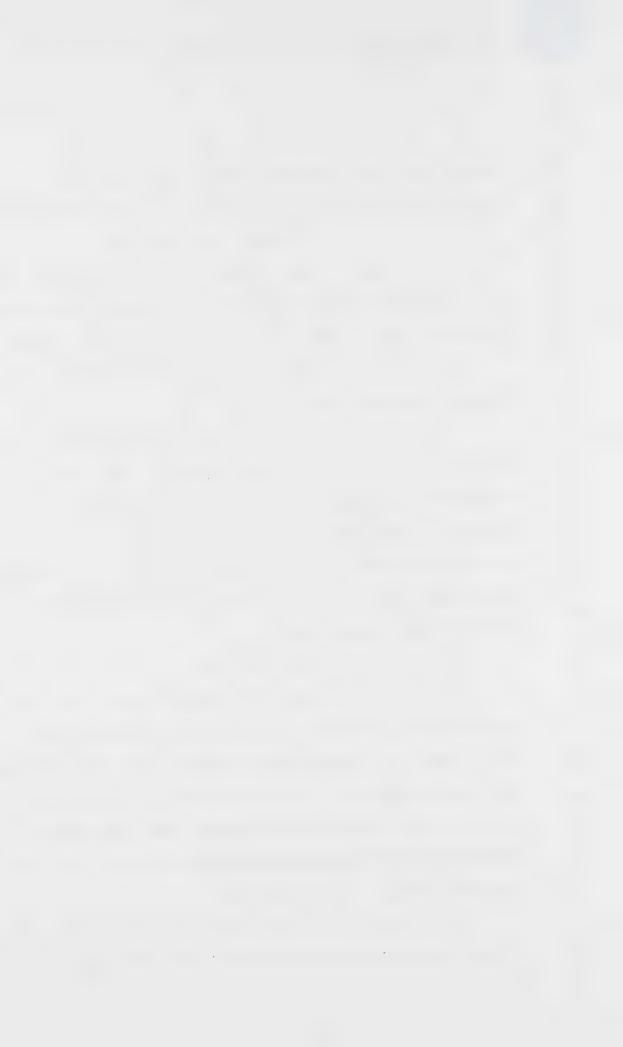


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before that that you were testifying, and this probably would come after you had finished testifying.

- A. It would be then, yes.
- Q. And I take it at the time you were testifying and as this preliminary hearing developed you were under a great deal of stress at that time?
- A. Well it was a very different and unique situation, yes.
- Q. Ma'am, I'm going to suggest to you that you were under such stress in the months of August and September and October that you were bothered considerably by it, and that it was you who is responsible for not just the pills in the soup and salad, but for all of these bizarre incidents that we have looked at?
  - A. No, I am not.
- Q. Well if it wasn't you, given the nature of the incidents that we are concerned with here, would you agree with me that if we find out who was responsible for those incidents it is going to tell us a lot about the incidents that occurred with respect to the babies dying between July of 1980 and March of 1981.
- A. I can't speculate on that at all.

  I don't know who was responsible for the baby deaths.





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yes.

Hunt.

don't know who was responsible for the threats.
ow, you are asking me to speculate on that they are
oing to give you the information, I don't know who
s responsible for either of them, I know I am not.
Q. That is fair enough.
A. And I can't give you an answer.
Q. We agreed these incidents in
ugust, September and October are pretty bizarre?

- Q. Pretty sick.
- A. Yes.

Α.

Q. And if somebody was killing these babies intentionally between July of 1980 and much of 1981 would you agree with me that is also pretty bizarre and pretty sick.

A. Yes.

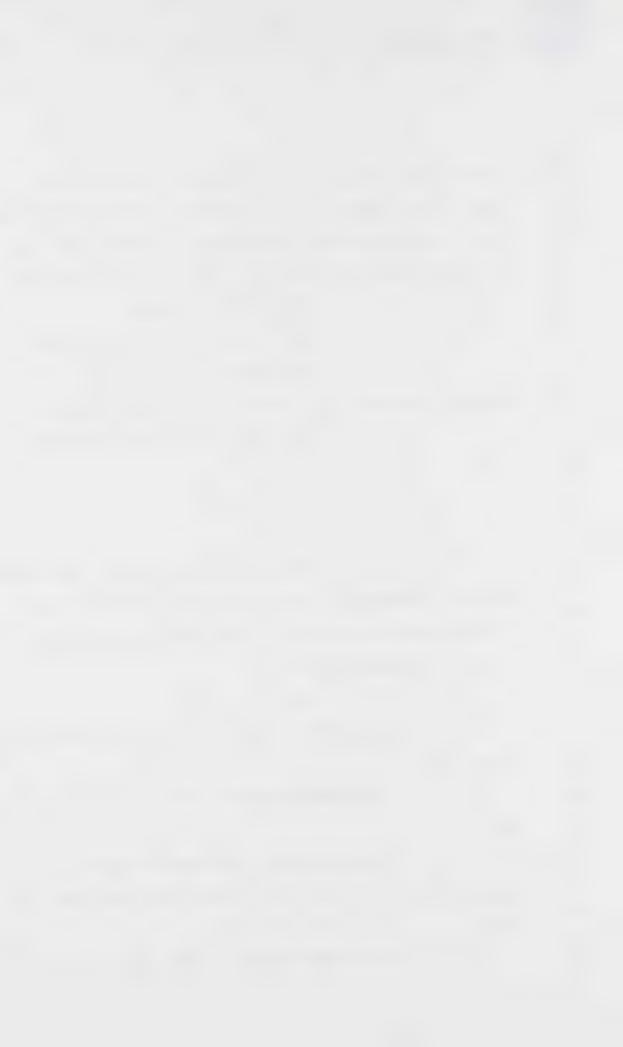
MR. HUNT: Those are all the questions. Thank you.

THE COMMISSIONER: Yes. Thank you Mr.

Well they were very upsetting,

MR. PERCIVAL: Mr. Commissioner, I would really not start ten minutes and then have to break.

THE COMMISSIONER: No. All right, we



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will	take	а	break	now	then,	20	minutes.
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Thank you. MR. PERCIVAL:

(Short Recess)

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(Upon resuming)

THE COMMISSIONER: Yes, Mr. Percival.

MR. PERCIVAL: Thank you Mr. Commissioner.

## CROSS-EXAMINATION BY MR. PERCIVAL

Mrs. Trayner I want to start, if I may, with respect to perhaps something that you have dealt with on a number of occasions in the course of the past few days having to do with your nursing team. I want at the outset perhaps to ask you a little bit about what you thought about your nursing team in the course of these nine months, and what you thought was their strength and their weaknesses.

I gather you had two nursing assistants working for you, or on your team, one was Marianna Christie, and before she started with you did you know how long she had been at the Hospital for Sick Children?

- I thought over 20 years.
- Q. Yes. Did you feel that she was a competent nursing assistant in paediatrics?
- Α. I felt Mrs. Christie was good at bedside nursing care.



	Ç	<u>)</u> •	Ar	nd th	nat was	your a	asse	essme	ent	at
the beg	inning	of t	he r	nine	month	period.	. [	oid t	hat	-
continu	e throu	igh t	he r	nine	month	period	as	far	as	you
were co	ncerned	1?								

A. Yes.

Q. And you said that that was one of her strengths, did she have any weaknesses?

A. She was, as I said, she was good with baby care or the basic care. I don't know if she was as astute as some of the other assistants on assessing children.

Q. I'm going to get back in due course to the use of that word, by astute do you mean clever?

A. Yes.

Q. Do you mean smart, intelligent,

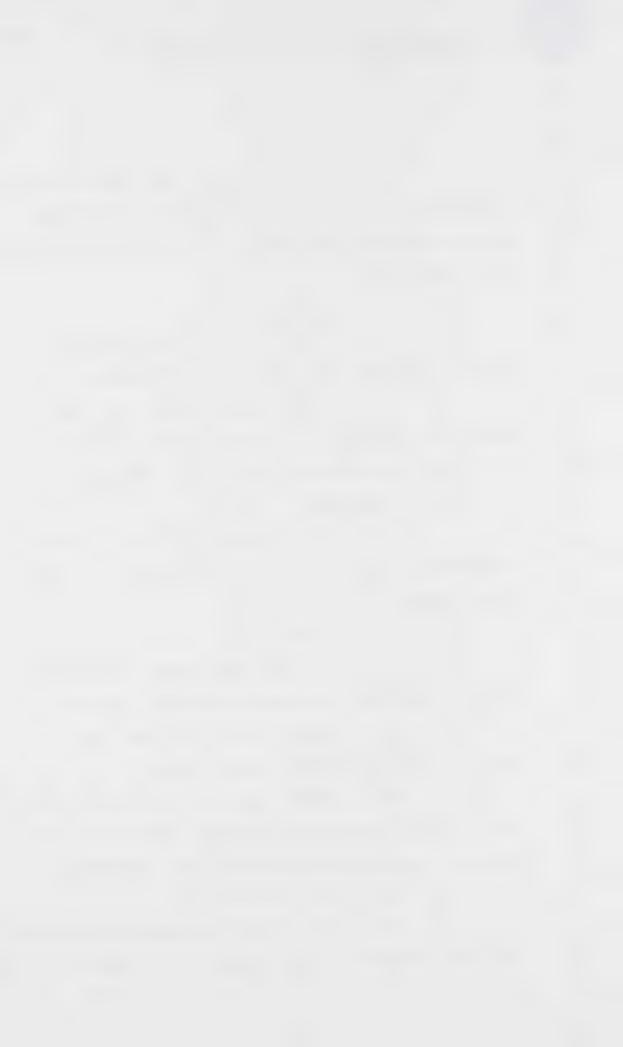
I'm not sure what you mean by the word "astute"?

A. Well I would say that she wouldn't be as quick to assess a child.

Q. That was what you perceived to be one of her weaknesses, did that change over the course of the nine months under your leadership?

A. No, it didn't.

Q. Any other strengths or weaknesses that you can give me with respect to Marianna Christie?



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A.	She	was	a	good	worker.

- Q. Yes.
- A. She was a nice person.
- Q. Anything else you would like to tell me?
  - A No.
- Q. Did you know anything of her formal education before she became a registered nursing assistant?
  - A. No, I didn't.
- Q. The other nursing assistant was Janet Brownless and I understand she was a recent graduate who joined your team I believe sometime in early September of 1980, is that your recollection?
- A. She was never really assigned to my team in particular. She worked a lot with our team, but she was a float.
- Q. Did you feel that in the course of this nine month period ending in March, that she was a member of your team as you described it?
  - A. Yes.
- Q. And could you tell me anything about any strength or weaknesses that you perceived in Janet Brownless throughout the course of those nine months that she worked for you?



please?

A. Her	strengths?
--------	------------

Q. Her strengths and weaknesses

A. She was also a good nursing assistant. She was reliable. She was eager to learn. She was good at asking questions that she was unsure of. She would go for appropriate help.

Q. You mean she was good at recognizing problems and recognizing things insofar patient care was concerned, and then if she couldn't provide this service or didn't know the answer she would look for help from others?

- A. Yes.
- Q. Yes, anything else?
- A. Not really, no.
- Q. Any weaknesses that you perceived.
- A. No.
- Q. Dealing with the next registered nurse, that was Sui Scott. My understanding is that she had been out of nursing for some ten or eleven years before she came to the Hospital for Sick Children, I believe it was in early 1980 or perhaps the latter part of 1979, is that your understanding?

A. Yes.



Q. And she was older than you were
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A. Yes.

Q. Can you tell me what you thought of her strengths and weaknesses during the course of those nine months that she worked for you?

A. She had been out of nursing for quite a while. She was just getting back into the nursing profession. She was not confident in her skills as a nurse. She was very -

THE COMMISSIONER: You say she was not competent?

THE WITNESS: Not confident.

THE COMMISSIONER: Oh, not confident. Yes.

Q. This question of skills was that one of her weaknesses, if I can use that expression, was a difficulty in measuring and giving out medication in paediatric proportions to the children on the ward?

A. She did have a lot of trouble with medications.

Q. Yes. A lot of trouble, does that mean she had difficulty measuring and ascertaining the correst doses, or was it more than that? In other words giving the wrong medication, can you tell me something about that, if anything?

A. It was basically she had trouble



- Q. Anything other than, that as far as you are aware, during the course of that nine month period.

  A. She had given out wrong medication on one time.
- Q. Was that the occasion involving the digoxin, involving Pacsai and Inwood?
  - A. No it wasn't.
- Q. When you say the wrong medication, when was that, can you remember? I don't want to get into the name of the child but I would like to know when and what type of medication it was that she had inadvertently given?
- A. It involved two digoxin doses for two children in the same room.
  - Q. When was that, do you remember?
- A. I don't know, it may have been just shortly after Susan's arrest, I'm not sure.
- Q. I want to know during the nine month period with which we are concerned, was that sometime after March 25th?
  - A. I think so.
- Q. Well up to March 25th were you aware of any errors, drug errors, that she committed at least when working for you as team leader in that



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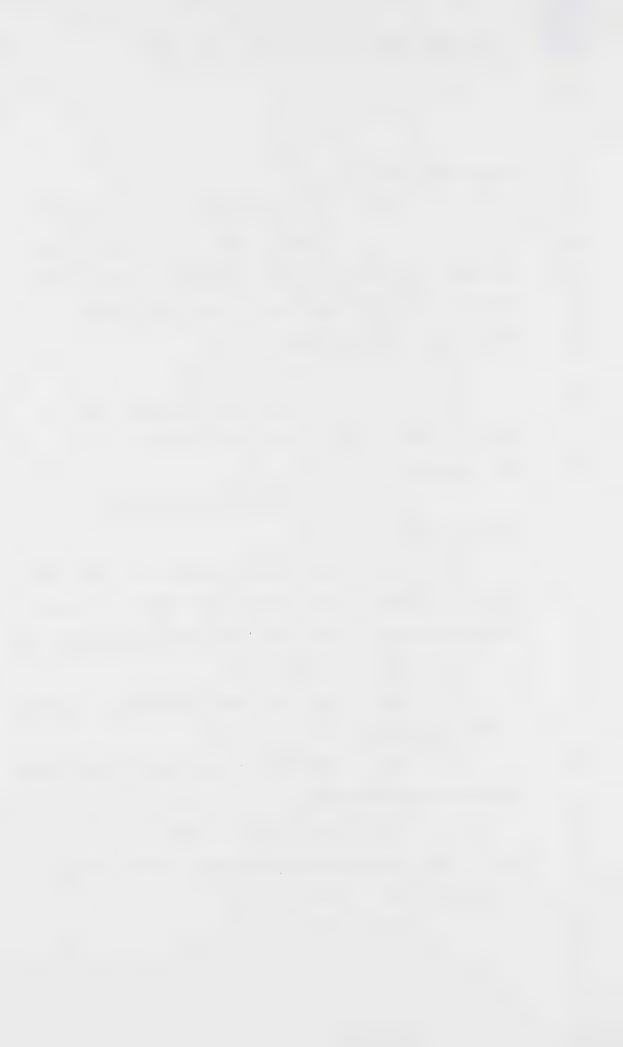
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nine	month	period.

- I can't recall any right now. A.
- Did you have another did you Q. perceive that she had also a problem of analyzing a patient's problems and then taking the necessary responsive nursing step?
  - At times, yes.
- Q. Any other weaknesses that you thought that she had during the course of those nine months?
- She was very intimidated by a A. lot of people.
- Do I take it that the manifestation of that was more to the point that while she might have something on her mind, she would not speak up?
  - Right. A.
- And did that include you as well Q. as Susan Nelles?
- Well she would come to me before Α. she would go to anybody.
- Do I take it the fact that she didn't want to speak up, that was to other people aside from you?
  - Α. Yes.



25apr84 EE EMTrc course?

 $\Omega_{ullet}$  I understand. Any other weaknesses that you thought Sui Scott had?

A. Well, she was just learning cardiac -- perdiatric cardiology so she was in the learning stages of that.

Q. All right. So that we have dealt now with three members of your team, if you regard Janet Brownless as one of the members. The next member of the team was Susan Nelles, and we know that she was a 1978 graduate with a Bachelor of Nursing Science from Queen's University. You were aware of that when she joined your team in the month of June 1980?

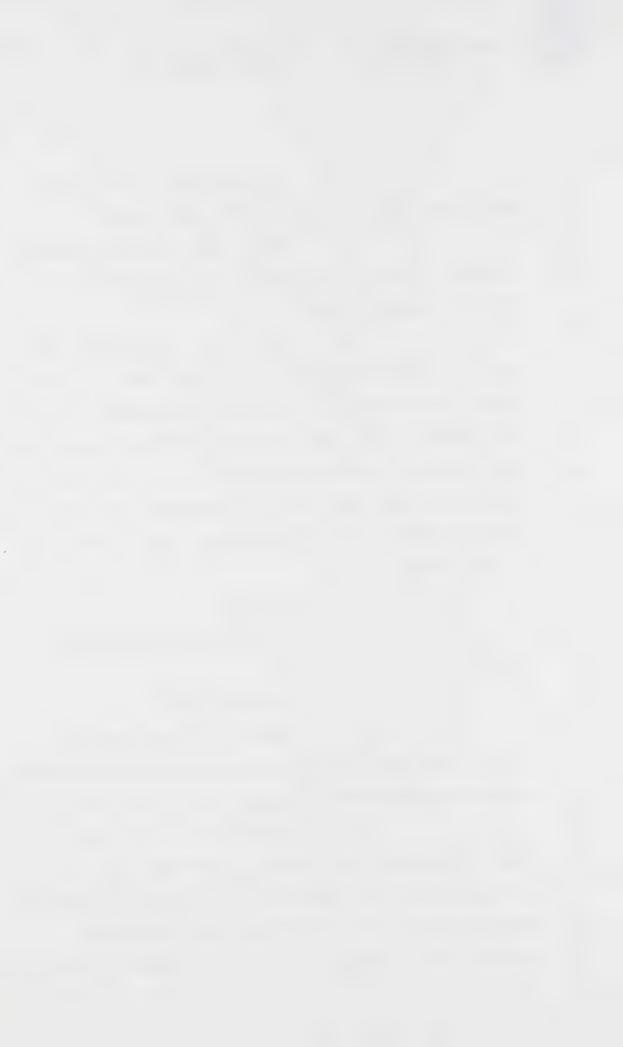
A. Yes.

Q. And that was a four year

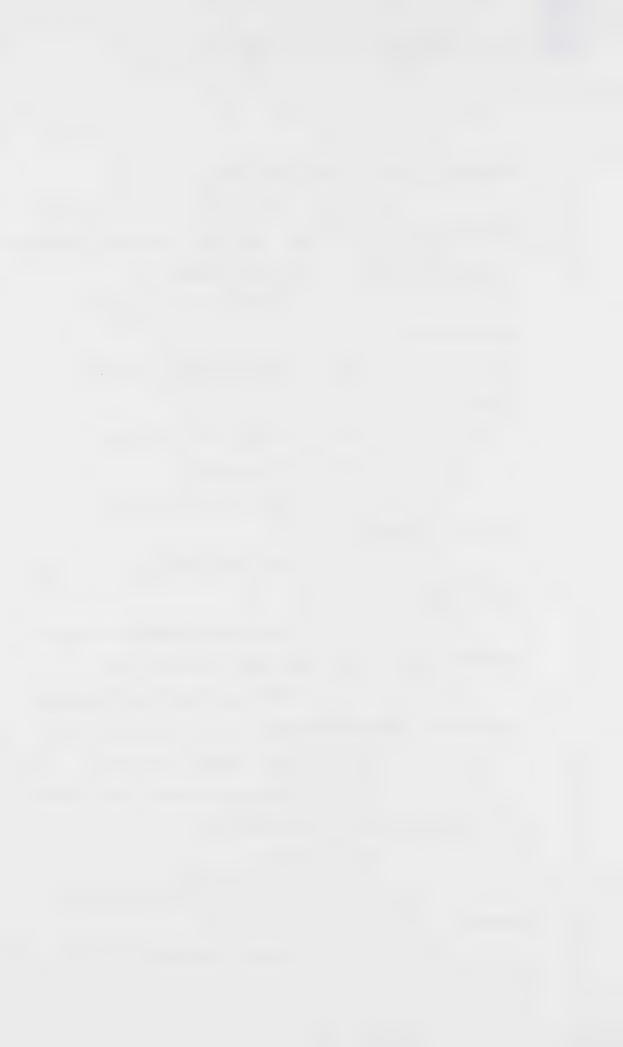
A. I believe so.

Q. And can you tell me that during the course of the nine months what you thought of her strengths and weaknesses as a registered nurse?

A. I found her to be a very competent nurse, very caring. I trusted her. I trusted her to take direction. I was able to delegate responsibility to her and know that it would be carried out. I could ask her to do something and be



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EE2	2	confident that i		
	3		Q.	Those are all what I would
	4	consider strengt	hs. Wh	at did you consider weaknesses
	5	during the cours	se of th	
	6		Α.	Sometimes it would be her
		outspokenness.		
	7		Q.	Outspokenness to you or to
	8	others?		
	9		Α.	To me and to others.
	10		Q.	About what? '
	11		Α.	Some of it had to do with
Hospital procedure.				
			Ω.	Was she critical of Hospital
	13	procedures?		
	14		Α.	She would question Hospital
	15	procedures as to	o why th	ney had to be the way
	16		Ω.	Did you ever hear Marianna
	17	Christie or Jane	et Brown	nless or Sui Scott do that?
	18		A.	No, I don't think so.
	19		Ω.	Did you ever do that during
the course of those nine months			ne months	
	20		Α.	No.
	21		Ω.	question Hospital pro-
	22	cedures?		
	23		Α.	I don't believe so.
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EE3

Q. So that was what you thought was a weakness. Any other weaknesses that you thought Susan Nelles exhibited, at least in your presence and during the nine-month period?

A. Not really, no.

Q. Well, you have given me the impression, and correct me if I am wrong, you felt that Susan Nelles certainly had the attributes of being a very competent nurse and aspiring to be a team leader?

A. Yes.

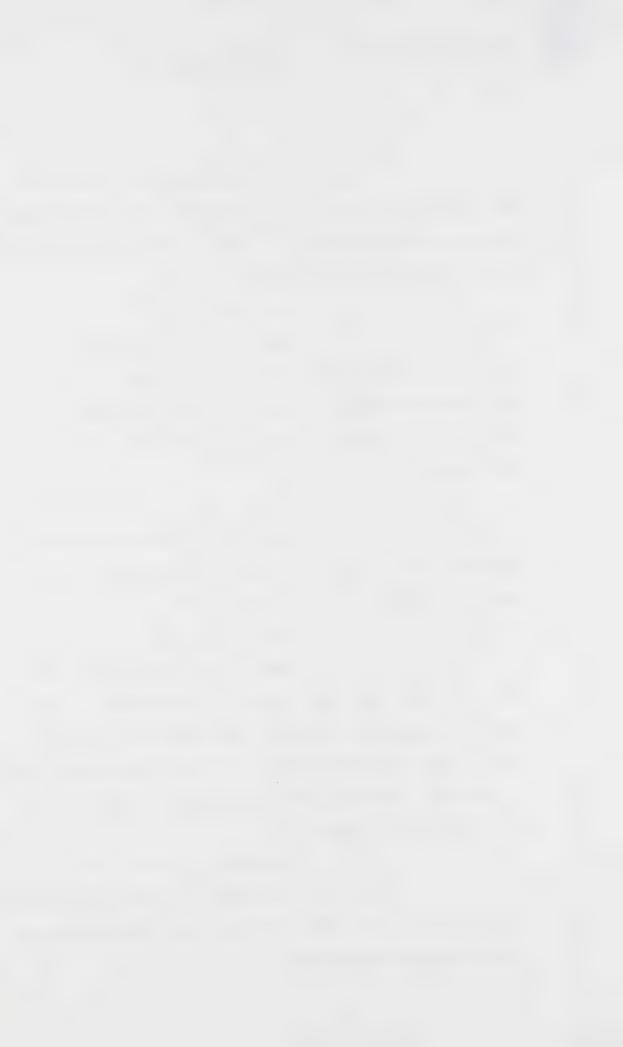
Q. And with a few more months' experience she would have been a team leader, at least so far as you were concerned?

A. Well, I -- yes.

Q. And let me deal lastly with you. You were the team leader. The captain of the team if I can call it that. You graduated in a two year course from George Brown College associated with St. Joseph's Hospital here in Toronto. What year was that, Mrs. Trayner?

A. I believe it to be 1976.

Ω. And then do I take it up until the month of June 1980 you would have had about four years' nursing experience?



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Α.	Ves	

- Q. Both at St. Joseph's Hospital as well as The Hospital for Sick Children?
  - A. Right.
- Q. Do I take it that aside from Marianna Christie, who had some 20 years as a Registered Nursing Assistant, you were the most experienced as a Registered Nurse in relation to the number of months, if not years, working in hospital?
  - A. On my team?
  - Q. Yes.
  - A. Yes.
- Q. Now I gather in the course of preparing to come to give evidence before this

  Commission, Mrs. Trayner, that you have from time to time read media reports with respect to the evidence that was given here?
  - A. That is correct.
- Q. From time to time have you read transcripts of the evidence that was given by other members of your team and other nurses in these proceedings?
  - A. I read a little bit of it, yes.
- $\Omega_{ullet}$  All right. Well, in particular did you read the evidence of Marianna Christie?



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	Α.	No,	I	didn'	t.
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 $\Omega$ . Did you read the evidence of

Janet Brownless?

A. No.

Q. Did you read the evidence of

Sui Scott?

A. I had some summaries of Sui Scott's evidence.

Q. All right. Did you read the evidence of Susan Nelles?

A. I - not her whole -- all her evidence, no.

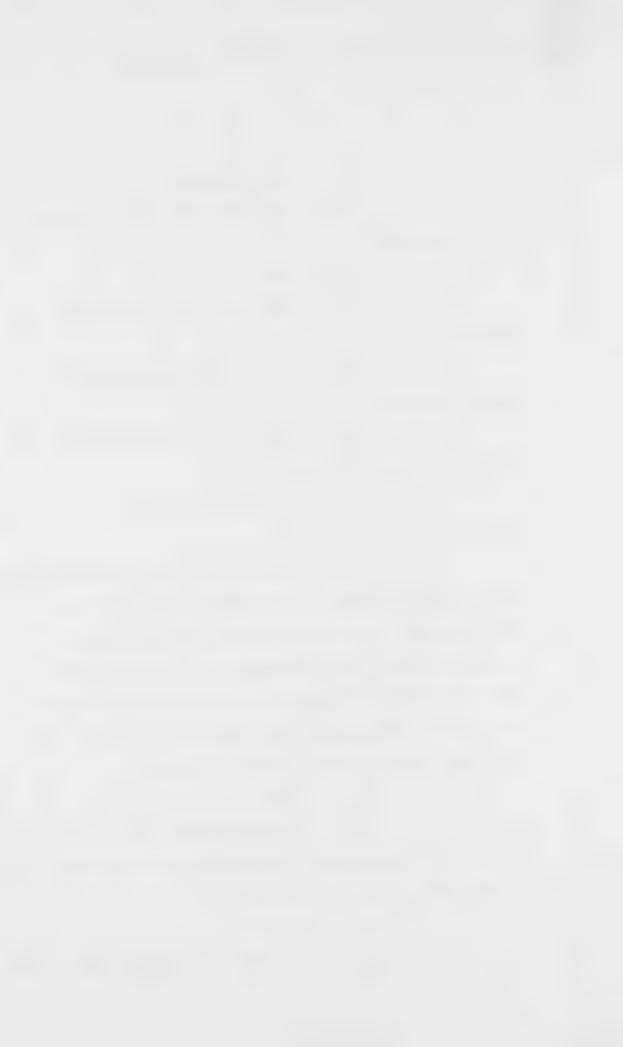
Ω. Well, is it your understanding that so far as three of the members of your team that Christie, Brownless and Sui Scott have given evidence before this Commission to the effect that they recognized the unusual pattern of baby deaths long before the end of this nine-month period? Is that your understanding of the evidence?

A. Yes.

 $\Omega_{ullet}$  You understand that the question of the patterns had to do with the similarity of the onset of terminal events --

A. Yes.

Ω. -- that the deaths were -- the



EE6

babies were dying on your ward and with your team --

A. Yes.

Q. -- they were occurring after midnight on the long night shifts that your team was working?

A. I am not sure how much they knew at that time.

Q. All right. In any event you were aware that there was increasing baby deaths?

A. I was?

 $\Omega$ . Yes. They have given evidence that they were aware there were increasing baby deaths. You are aware they have given that evidence?

A. I knew that we had more deaths than I had up on 5A.

Q. No, I'm not asking you, Mrs.

Trayner. I just want to know -- are you aware of the fact that in this Commission those three members of your team have given evidence that they were aware as they went through the nine-month period that you were getting more and more baby deaths?

A. Yes.

Q. Are you aware also that they had testified that very often the baby deaths occurred after the lunch break when the nurses had been





EE7

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relieved; the nurses that had been particularly caring for the children?

A. Yes.

Q. And you are aware that quite apart from those three members of your team that have given that evidence, you are aware from other nursing witnesses who have given evidence in this Commission that they were certainly aware of the pattern of increasing baby deaths long before the end of the nine-month period?

A. Yes.

Q. Now, as I understand your evidence in this Commission, Mrs. Trayner, you have told both Mr. Lamek and Mr. Hunt that you yourself did not recognize any unusual pattern until about the first or second week of March. Is that accurate?

A. Yes.

Q. And I believe that at some point in time and I think that Mr. Lamek asked you this, you were asked back on April 24th in Volume 134 as to why the three members of your team recognized the unusual patterns long before you did and you didn't - and I just want to refresh your recollection as to what you said. At page 951:

"O. Sui Scott was in the middle of



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it; she was a member of your team and she had recognized by the end of August that deaths were happening while your team was on duty. She indicated to us, and I am referring to Volume 118, that by the time you had returned from your honeymoon, which was a few weeks into September, everybody was aware what was happening because of all the remarks about the bad luck, et cetera. So she was someone who was right in the centre of it and it didn't seem to prevent her from becoming aware of it." "A. She is probably more astute than I was, more clever."

"Q. She was more astute than you were?"

"A. Yes."

And you remember those questions by Mr. Hunt and your answers?

- A. Yes.
- Ω. And one of the things that

  I remarked about is the word "astute", something that—
  is that word often used by you, because you have used



EE9

it again this afternoon, and I was wondering is that a word that you are comfortable with and have used on previous occasions?

- A. On previous occasions, yes.
- Q. Yes.
- A. Not --
- Q. I was struck by it because

  I don't think I have ever heard it in this Commission

  except on one previous occasion and that was when

  Susan Nelles gave evidence on almost the identical

  question, and let me read it to you. This is when

  she gave evidence at 8441, Volume 125, Mr. Commissioner,

  starting at the top of the page, and this is again

  by Mr. Hunt's cross-examination:

"...the bulk of the evidence we have heard suggests that people were becoming aware from any point in July through to the late fall of the fact that there was an increased number of deaths, that they were occurring at night, in a particular time frame at night, in the presence of the same team. That your suggestion that it was March when you first realized these deaths were occurring at night



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is difficult for me to understand given the experience of the bulk of the members of the team that you worked with during that period." It is my feeling that we are dealing very much in hindsight at this point in time, and it is difficult for me to recall exactly when the feelings arose in terms of what my thought process was three, three and a half years ago. It seems to me that I did not really bring that kind of, sort of grouping of the deaths as being at a certain time frame, or being with our team particularly, until March. I guess maybe I was not as astute as my colleagues."

"Q. What you are saying is you didn't appreciate the fact that these deaths were occurring by and large at night, in the early morning hours, until some time in March?"

"A. I do not remember making that link, no."



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Now, Mrs. Trayner, I was struck by the similarity of the responses and the use of the same terminology, and I was wondering whether prior to the time you gave evidence here you had met with Susan Nelles and talked about the response that you would give to that question about your lack of appreciation of the patterns of the deaths. Did you?

I have not seen Susan since Α. her preliminary hearing.

So do I take it then that if 0. it is a fair inference that the terminology that was used was identical that you may have picked it up from reading the transcript?

> I may have. Α.

Yes. Well, did you? 0.

I don't know. It's a word that Α.

I have used.

Well--or did you say to your-Ω. self, Mrs. Trayner, it seemed to have gone all right by Miss Nelles when she was answering questions of Mr. Hunt; I will try it on again for size?

No, I didn't.

All right. All right. Let's try something else then.

Mr. Hunt cross-examined you again also



EE12

about your lack of recollection about many of these baby deaths, and we will try this again: On April 24th, your evidence at Volume 134, page 954. Mr. Hunt is cross-examining you again on April 24th:

"Q. And other than that, essentially your recollection of any of those deaths in that period up until you went on your holidays is virtually nil. My question to you is, someone who was keenly interested in what was going on, someone who was going over these events in your mind, looking for a clue, how is it that you can now recall nothing about them?"

"A. Well, it's three and a half years later, almost four."

"Q. These were events that had tremendous impact on you, as you have already said."

"A. Well, yes they do, but a lot has happened in three and a half years; there is no reason to continually rehash it and to make a note of it and to remember it."



EE13

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Do you remember being asked those question and giving those answers?

A. Yes.

"Q. I can see that if you go back in July, but as we get closer in March when the events surely should have been far fresher in your mind at the time you were arrested, why you can't remember for instance Warner and Gionas, why you can't remember Gosselin."

"A. I just -- I had no reason to question anything that took place, and as I say, we are three and a half years away from that and it was never brought to my attention."

Now again I put the question to you:
The responses to those identical questions are almost similar. Have you collaborated with Miss Nelles in



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relation to formulating an answer to that question?

- A. No, I haven't.
- Q. All right. Did you take the answer from her evidence and then decide to give it before this Commission in order to say why you could not remember?
  - A. No, I didn't.
- Q. You didn't think to yourself it was a good answer for her; she didn't seem to lose on it. It should be a good answer for me? Did you think about that?
  - A. No, I didn't.
- Ω. May I deal with another matter. You as a nurse and you on a team I gather were working in that nine-month time period on a series of long nights, long days?
  - A. Yes.
  - O. And those were 12-hour shifts?
  - A. Yes, they were.
- $\Omega$ . And I gather that however you get it, it becomes a situation where you would work somewhere between  $37\frac{1}{2}$  hours to 40 hours a week?
  - A. That is correct.
- $\Omega_{ullet}$  And whether you worked more one week and less the next, that's the average over the



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course of many months?

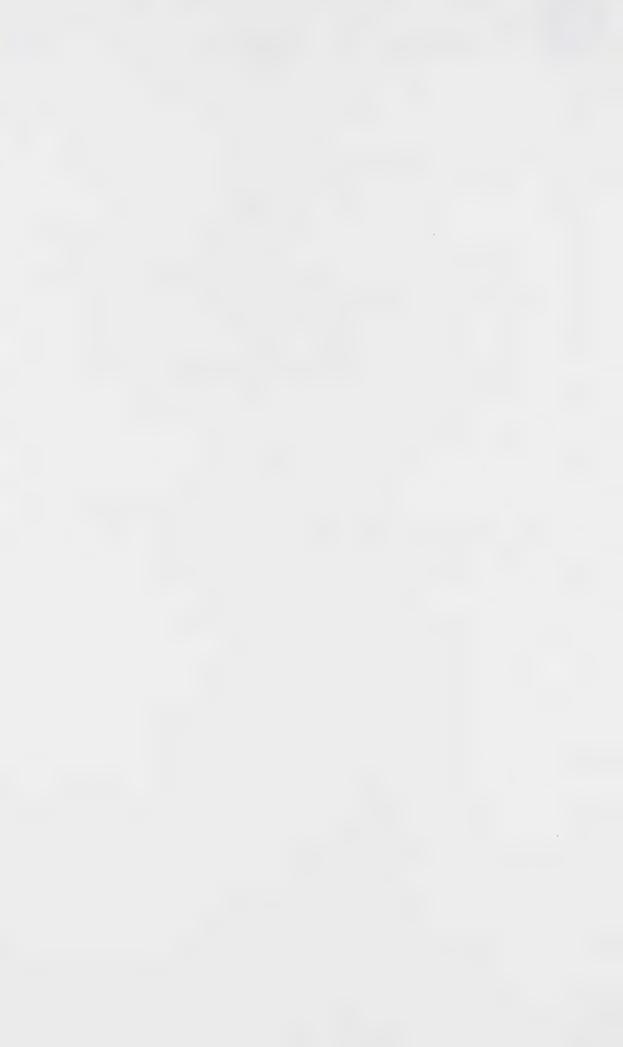
A. Right.

Q. And what I am interested in doing is this, and getting to the amazing statistics that we have heard and Mr. Hunt alluded to those: your team, if we assume there is 168 hours in a week, a patient can be exposed to your team less than 25% of the time by just dividing 168 by less than 40; is that right?

A. Okay.

Q. All right. So the odds of a patient ending up being treated by you, your team, on the cardiac ward in 4A is 1 in 4?

A. Right.





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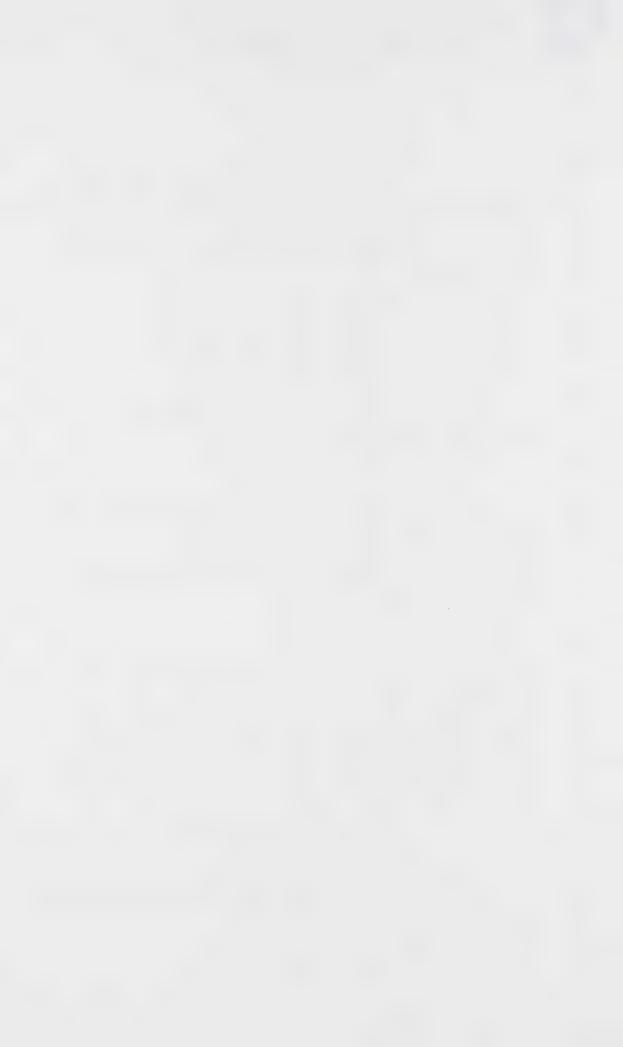
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			Q.	So	, ev	ery	time	your	team	was	
on the	here	were	three	othe	r te	ams	that	would	d con	sistenl	-7
have	the	same	exposi	ire o	n an	hou	urly	basis	to t	hat	
same	chi	ld?									

- A. Right.
- Q. Is that right?
- A. Yes.
- Q. Now, based upon that, and you have read the Atlanta Report?
  - A. Yes.
- Q. And you know something now about the statistics which are shown rather dramatically on Exhibit 383, and you have that in front of you, do you?
  - A. Yes.
- Q. Can you give me any explanation as to why so many of these babies had the onset of their terminal events and their deaths in most cases while your team was on duty on long nights?
  - A. No.
  - Q. If the odds are 4 to 1 against it?
  - A. No, I can't.
- Q. You didn't have an explanation then I gather?
  - A. Right.





7 8

	Q.	Do you have one	now except
that what	you have sa	id to Mr. Lamek	it was a
matter of	coincidence	and bad luck.	I think you
said that	earlier in	your evidence?	

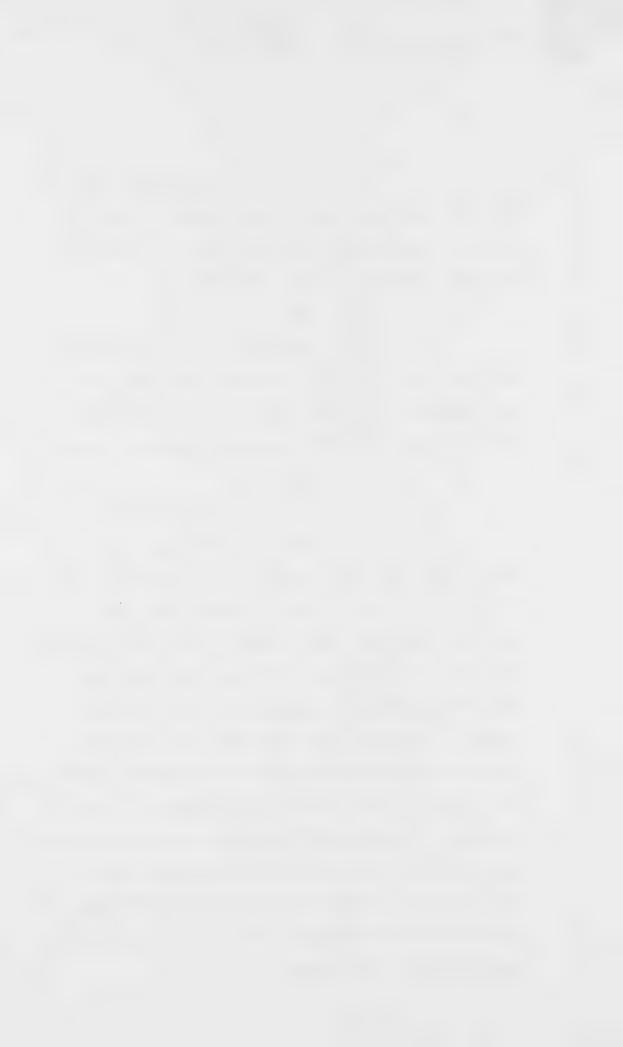
- A. Yes.
- Q. And that's the explanation that you give to this Commission as to why they were happening on your ward, on your shift and with your team and after midnight in most cases?
  - A. Yes.

Q.

Q. Coincidence and bad luck?

We'll get to that shortly.

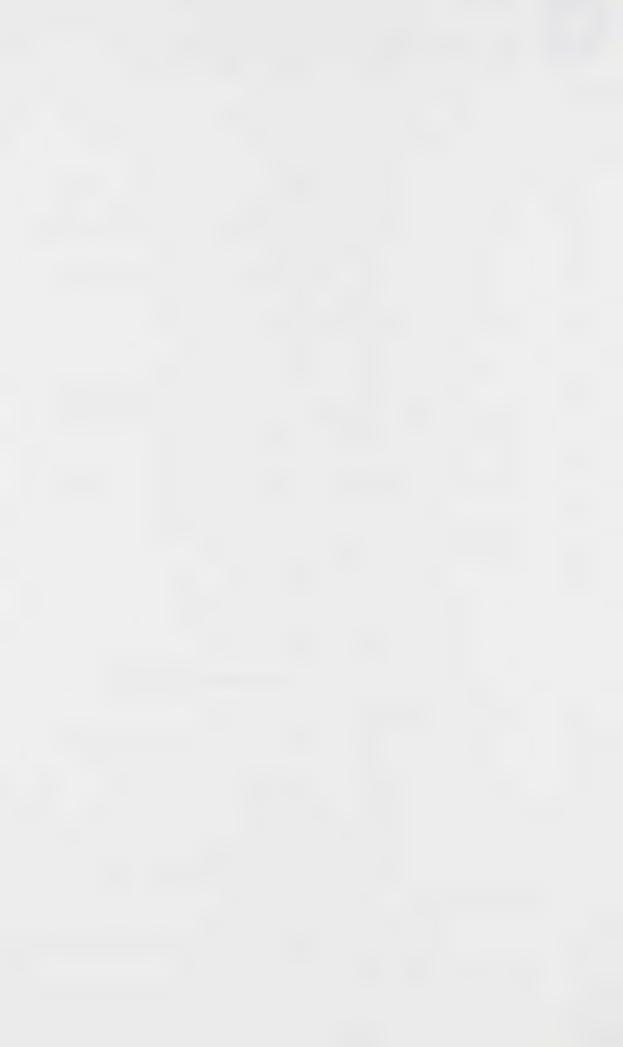
- A. That and the only other possibility was that somebody was using our schedule.
- Now, do I take it, and I tried to get this evidence down, but I'm not sure. At some point in time in being responsive to a question by Mr. Lamek or perhaps it was Mr. Hunt you were asked at some point in time whether it was in the month of March, and I guess it must have been according to your evidence, at some point in time you became aware of the increasing incidents of baby deaths and the fact they were always happening with your team and I think that your evidence was that you asked the physicians for an answer?





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2	Α.	Yes.
3	Q.	Do you remember saying that?
4	Α.	Yes.
5	Q.	And they gave you the explana-
6	tion, well, they were	very sick babies.
7	Α.	Yes.
8	Q.	Did I take that down right?
9	Was that your response	e or was that their response
	when you started askin	ng the physicians, why are they
10	always happening on or	ur shift and with our team?
11	Α.	That was the answer when we
12	questioned each death	•
13	Q.	All right.
14	Α.	Individually.
15	Q.	All right.
16	Α.	I do remember speaking to
17	Michelle Heilbut.	
	Q.	And that is a doctor, sorry?
18	Α.	I'm sorry, yes.
19	Q.	Thank you:
20	Α.	After Kristin Inwood had died.
21	Q.	And that's in the month of
22	March, 1981?	
23	A.	Yes. That was about why they
	were dving at night of	n our shift.

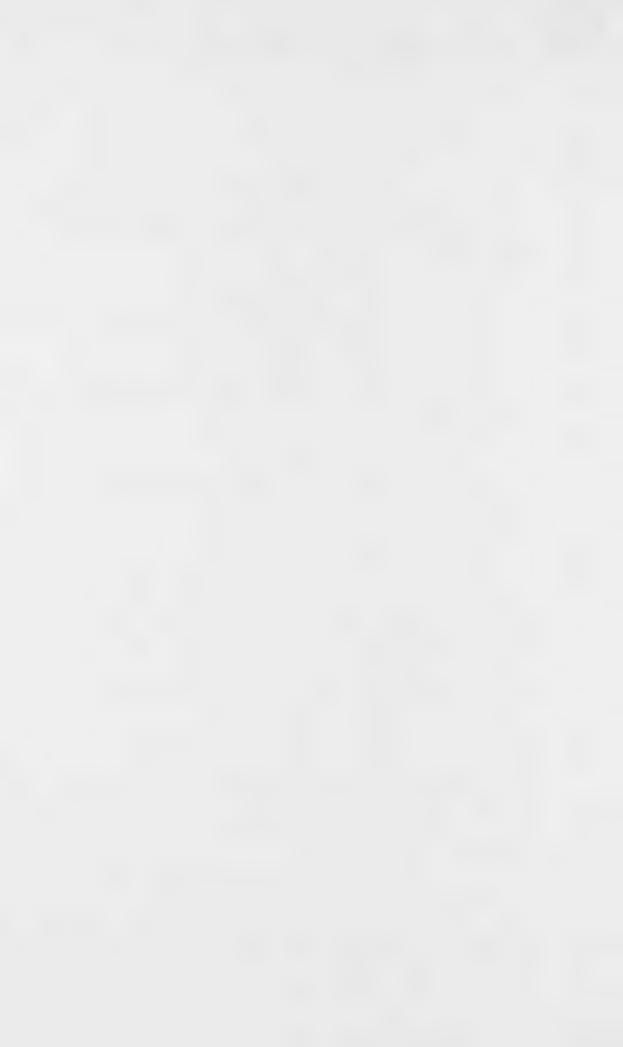


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3	Q. All right. And her response
4	was that people die more often at nights rather
5	than days?  A. That's right.
6	Q. Did you believe that?
7	A. Well
8	Q. Well, she said that, did you
9	believe it?
10	A. Yes.
	Q. And were you satisfied with
11	the answer?
12	A. Yes.
13	Q. Well, did that really, the
14	question, if you have a very sick baby, the baby is
15	usually quite sick all the time, he's not just
16	selective of being sick right after midnight, is he?
17	A. That's right.
18	Q. And if the odds are 4 to 1
1	he's going to be sick on all four teams that are
19	looking after him in the course of one week, are
20	they not?
21	A. The child may be, yes.
22	Q. Well then that's not much of
23	an answer if you were satisfied with it, is it,

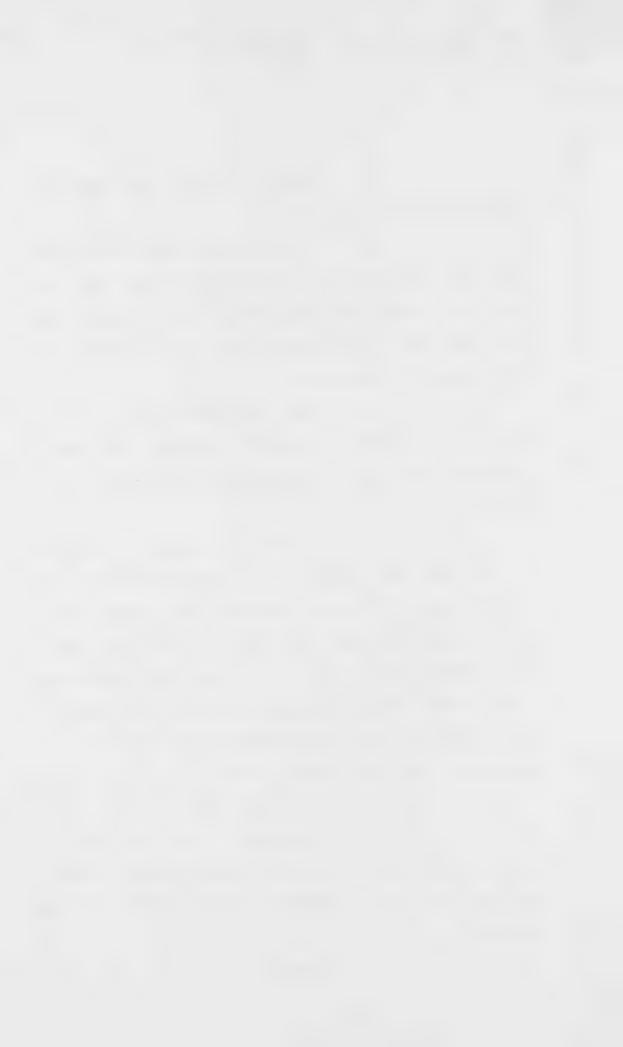
given the four teams looking after a baby?





	I	A .	We]	1,	we	don't	know	when	the
child	exhibited	signs	of						

- Q. Well, are you suggesting that under the circumstances if the answer was they were very sick babies that they were only very sick when your team was looking after them on this ward. You're not suggesting that surely?
- A. All I'm suggesting is that we were concerned, we asked Dr. Heilbut, she wasn't concerned, she wasn't surprised and we took it at face value.
- Q. I know, but ma'am, I am going to take the next thing, that's something else. I'm talking about the first response that you got from the doctors that they were very sick babies. That still didn't answer why, if you are only exposed to them 25 per cent of the time that they are always going into critical situations and dying on your ward when your team was on, does it?
  - A. It did at the time.
- Q. All right. And then the second response after Kristin Inwood died in March was the fact, well, patients die more often at night than day.
  - A. Right.

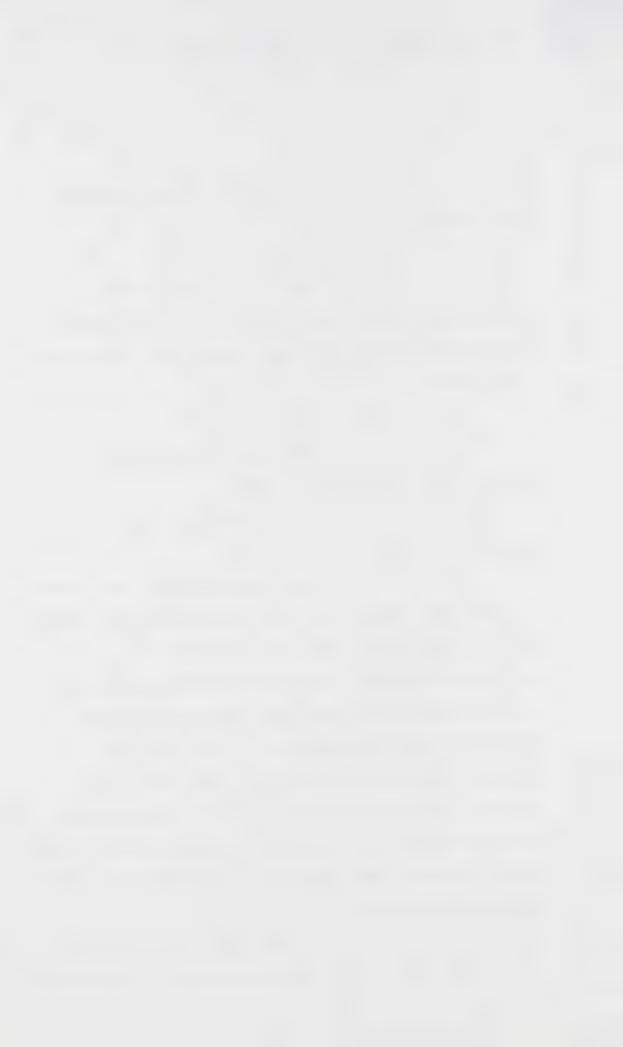


long nights?

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Q.	You	weren't	always	working

- A. Right.
- Q. And if you look at the statistics, ma'am, some of the teams that worked long nights didn't have any deaths occur when they were working.
  - A. Yes.
- Q. How would that satisfy you then if you were aware of that?
- A. It just did, we had no reason to question it.
- Q. Well, surely there was a whole lot of other people out there questioning it. Maybe you and Miss Nelles were the only two who weren't but we have heard a plethora of witnesses who have given evidence here who were questioning it and wondering what was happening. Now, is it a question that we should say you and Miss Nelles were the only ones who were left in the dark and you were stupid, you were not as clever as all these other witnesses who apparently recognized the pattern long before you did?
- A. I never saw it as a pattern and I never saw it as anything unusual. The doctors





were not surprised when we asked them.

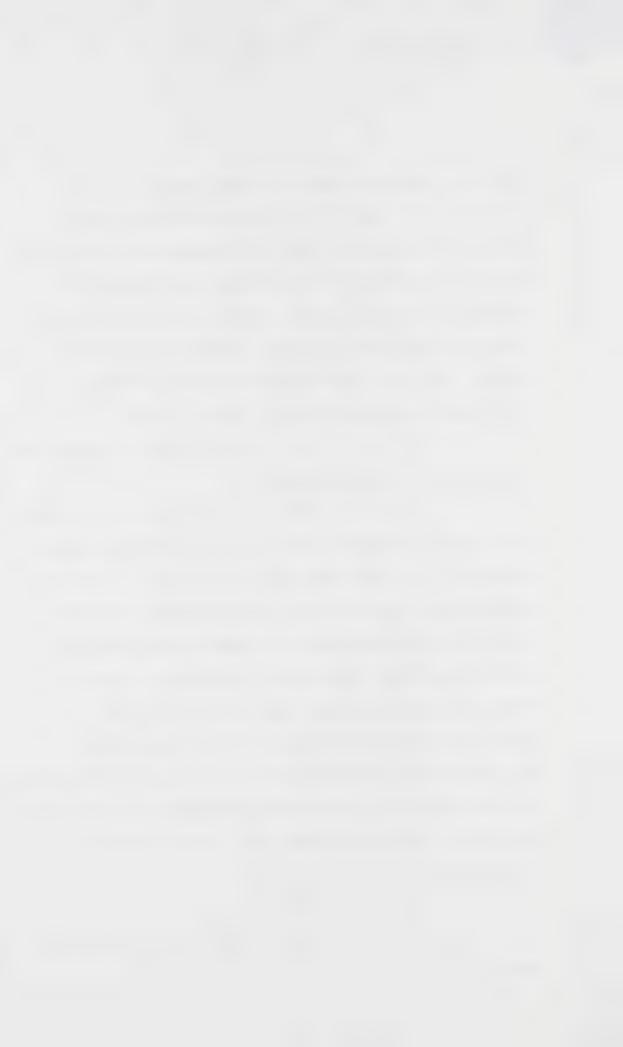
Q. I'm concerned about this,
ma'am. If you think your colleagues were more astute
than you were doesn't that seem a little bit to
rankle you at this point. You were the team leader
looking after this team and looking after these
babies. Do you feel threatened now by thinking
they knew something that you didn't know?

A. No. I don't know if maybe they are dealing in some hindsight.

Q. Well, I don't know, they didn't talk about hindsight when they gave evidence under oath here. Is that what you are saying is the only explanation as to why all these nursing witnesses said, yes, we recognized the problem and we were asking questions but we were getting no answers. They were talking about back in July of 1980. You are talking now when we are down to baby 26 as far as I could see of babies that died on the Wards 4A/4B and were the 26th successive unsuccessful resuscitation that you participated in. That's what I'm talking about.

- A. Yes.
- Q. And it never struck you until

March?



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25th.

A. No, it didn't	Α.	No,	it	didn'	t
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Q. Now, I want to deal with one thing and I am not sure whether these have been made exhibits. At some point in time following the events of March 25th and you were being questioned by the police you prepared some personal notes, did you?

A. I made some notes on March

Q. Yes. And those notes were in fact referred to by you at the time of the preliminary hearing, and I'm not sure whether they were made an exhibit but I have a photostatic copy of this. Would you like to take a look at that and tell me whether these notes are in your hand-writing please?

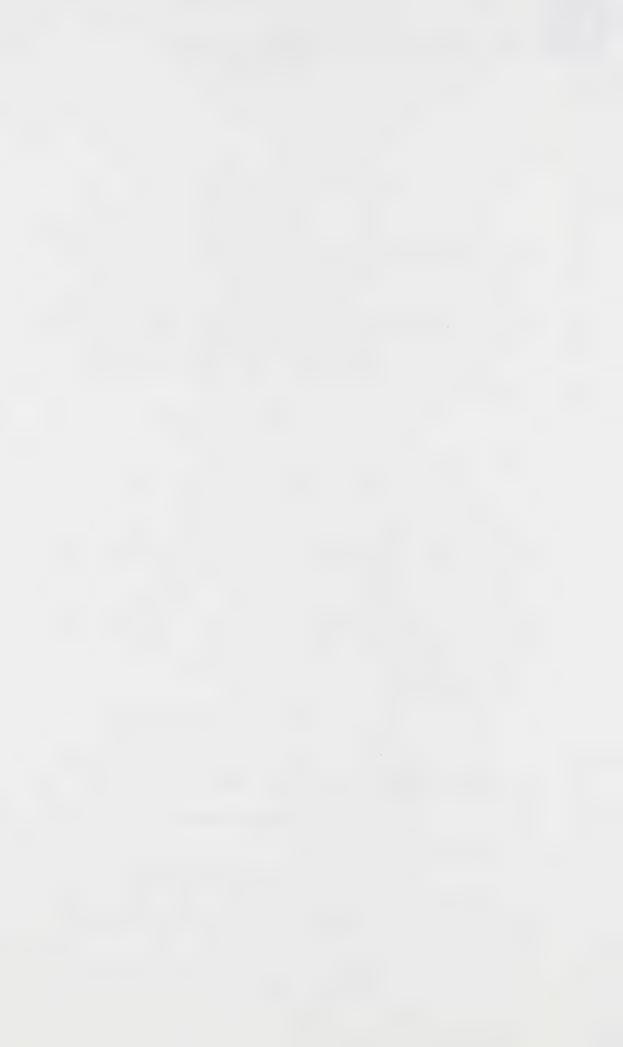
A. Okay. Yes, they are.

Q. All right. And when do you think, Mrs. Trayner, that you made these notes?

A. It was on March 25th about 3 o'clock.

Q. All right. Mr. Commissioner, may we have this marked as an exhibit and we will deal with it.

You made these on March 25th and is



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were	wit	h t	he t	wo :	poli	ce	off	ice	ers	in	you	c apa	artm	ent?
				Α.	,	Yes	, i	lt v	vas.					
				Q.		And	I	am	int	ere	este	d in	tha	t.

Do I take it then that on March 25th when the police officers left on that very day you made these notes?

> Yes. Α.

All right. So, do I take it Q. that from the time you commenced the notes to the time you finished the notes you never had the chance to consult a lawyer?

THE COMMISSIONER: I'm sorry, excuse me, Mr. Percival, it is Exhibit 396. MR. PERCIVAL: Thank you.

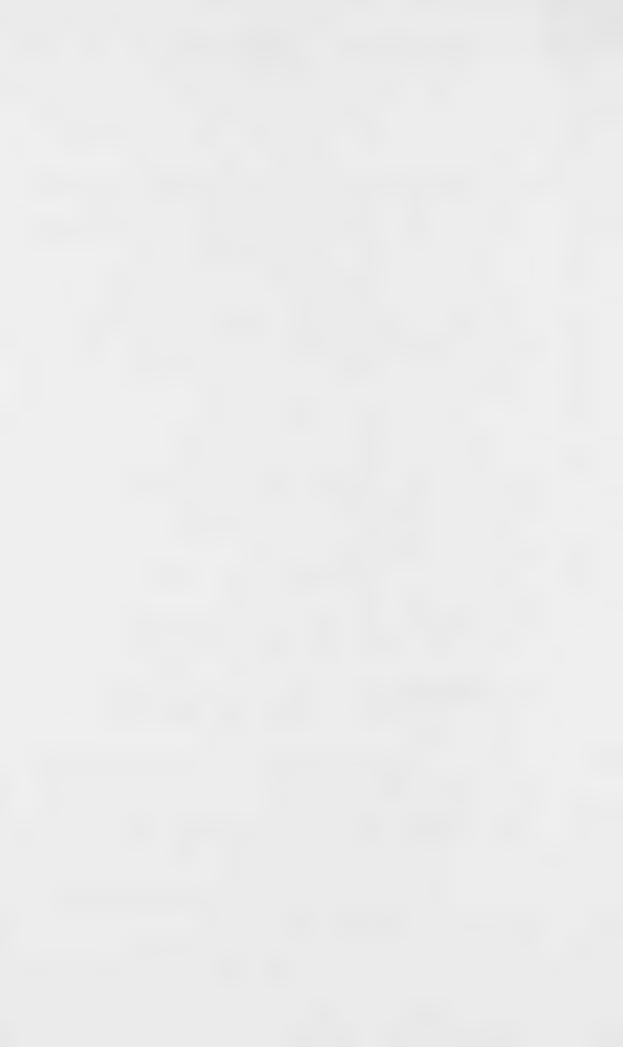
Phyllis Trayner's notes dated --EXHIBIT NO. 396: March 25th, 1981.

MR. PERCIVAL: Q. So, do I take it they left at about, I think you have given evidence Staff Sergeant Sangster left at about 2 or 3 o'clock.

> Α. About 20 to 3:00, yes.

Q. And as soon as they left did you start to prepare these notes?

> It was right after I phoned Α.



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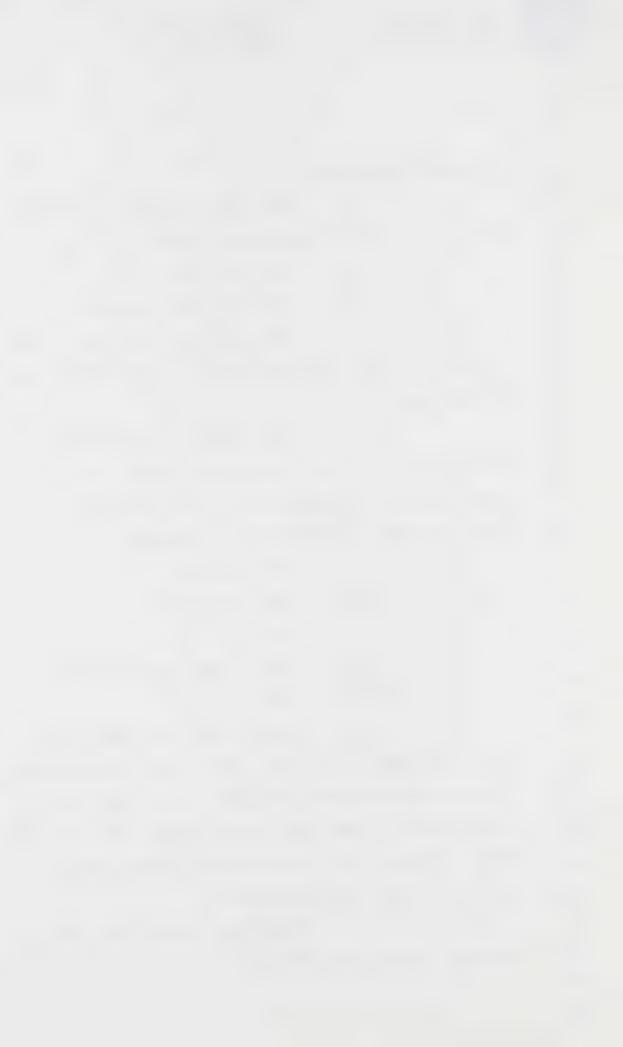
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Elizabeth Radojewski.

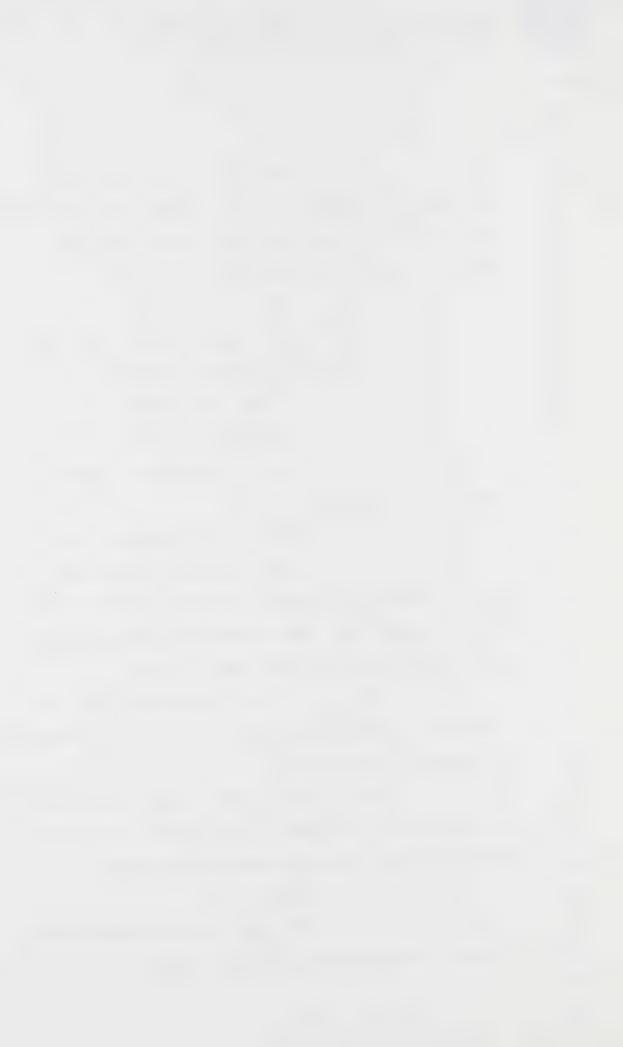
- Q. And you phoned her, did she suggest you start making these notes?
  - A. Yes, she did.
  - Q. And for what purpose?
- A. Just to have them and to have a memory of what was said during the interview with the police.
- Q. Do I take it Mrs. Radojewski had asked you to put down as well as you could recall what you had said to the police officers in the course of the interview in question?
  - A. Yes, she did.
  - Q. And to keep it?
  - A. Yes.
  - Q. And is that what you did?
  - A. Yes.
- Q. Can you tell me, since the events of March 25th, 1981 and up until the present time have you prepared any other notes relating to these events in the nine month period that you have used to refresh your recollection before giving evidence before this Commission?
- A. They were notes that I did with my lawyer George Strathy.



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	Q.	No, but	I want to	know,	I
don't wa	nt to tread	into those	waters bu	ıt are	these
notes th	at were mad	e some short	t time ago	, and	I
don't wa	nt to talk	about what :	is in them	1.	

- A. Yes.
- Q. All right. Within the last --
- A. To prepare for this.
- Q. I beg your pardon?
- A. To prepare for this.
- Q. Are we talking in terms of the last two months?
  - A. Two to three months, yes.
- Q. And are these notes based upon a number of documents that you had before you or is it based upon your independent recollection of the events during the nine month period?
- A. It was a lot to do with the independent recollection but I did have the documents or charts in front of me.
- Q. All right. When you say charts, are you talking in terms of the charts of the 29 babies who died when you were on the wards?
  - A. Yes.
- Q. So, you had the chance then I gather to review the 29 charts before you gave



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evidence here?

A. Yes.

Q. Thank you. Have you used any of those notes to refresh your recollection, say, before you started giving evidence last week?

A. No, I didn't.

Q. All right. And there is nothing else that you can -- So, do I take it that those notes, Exhibit 396 were prepared on March 25th and any other notes you prepared were prepared in the year 1984 in conjunction with your lawyer?

A. Yes.

Q. There are no other notes around that you have?

A. I don't believe so, no.

Q. Thank you. Now, I want to start if I may, and you have in front of you I believe Exhibit 383 which is the deaths that were categorized by Atlanta showing the dates of the death of the individual babies and the categorization and your initial is the first one, PT. You are familiar with this particular exhibit?

A. Yes.

Q. Now, the first baby that died was on June 30th, 1980 as I see and you are aware of

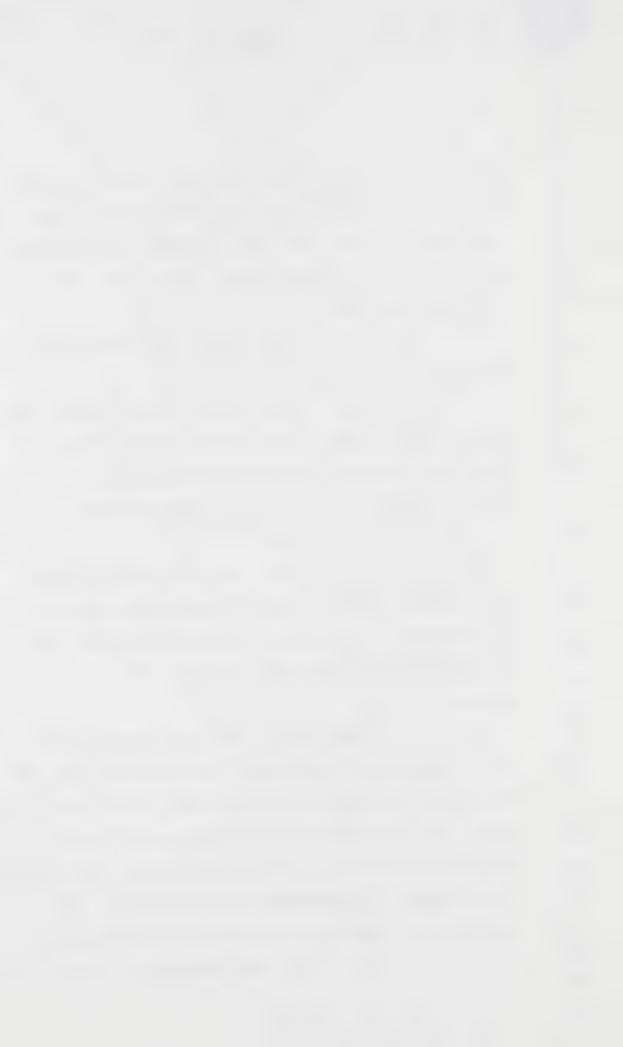


the fact that that baby's terminal events started at about 5 or 6 o'clock in the morning when your team was on 4A and this baby started having problems at about 5 or 6 o'clock and he was on 4B. Is that your recollection?

- A. Well, from the evidence that's out, yes.
- Q. All right. And I think that you have very limited recollection of the death of that baby and what happened before you went off shift at about 7:00 or 7:15, is that correct?
  - A. Yes.
- Q. Now, when had you and Nurse Susan Nelles first started to work with reference to the death of that first baby with which we are involved in this nine month period? Was it shortly before?

Well, may I tell you I have looked at the assignment sheets and I am going to tell you what's in them and your counsel will check them I am sure. But you first started working with Susan Nelles on your team on long days on June 18th, that's approximately 12 days before the first baby died. Is that your recollection, generally speaking?

A. My recollection was it was



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some time in June, I don't know the date.

Q. All right. Well, you worked long days on June 18th with Susan Nelles, you worked June 19th long days, the next day you worked on June 23rd on long days and Susan Nelles was the acting team leader. Do you remember that?

A. Not really, no.

Q. On June 24th you again worked in conjunction with Susan Nelles, again she was acting as the team leader. Do you remember that?

A. No, I don't.

Q. Well, up until June 24th you had never worked on long nights with Susan Nelles and then there was a progression of three nights in a row, June 27th you worked long nights with Susan Nelles, June 28th you worked long nights with Susan Nelles and on the third long night shift when you worked in conjunction with Susan Nelles the first baby death with which we are concerned occurred on the combined wards of 4A and 4B.

Now, even to the present time have you ever reflected or thought about what a fantastic coincidence that is? In other words, you start working in conjunction with a nurse and very shortly thereafter, the third long night shift the first baby





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death of the 29 with which you were concerned occurred?

- A. No, I didn't.
- Q. Not even to the present time?
- A. No.
- Q. So, do I take it then if you haven't thought about it you have no responses to the amazing coincidence that is?
  - A. That's right.
- Q. I want to deal with another matter if I may having to do with the death of a nine-day old baby that occurred two days before Christmas, Stephanie Lombardo. I think that you told both Mr. Lamek and Mr. Hunt that you have absolutely no recollection of this baby even though it was just before Christmas that this young baby died?

A. Yes.

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And I gather that certainly 0. some time in the course of the past two or three months you have had the opportunity of reading the chart of Stephanie Lombardo, which has been marked, Mr. Commissioner, for your assistance, Exhibit 78 in this Commission. Did you read through that for the purposes of trying to refresh your recollection as

> Yes. Α.

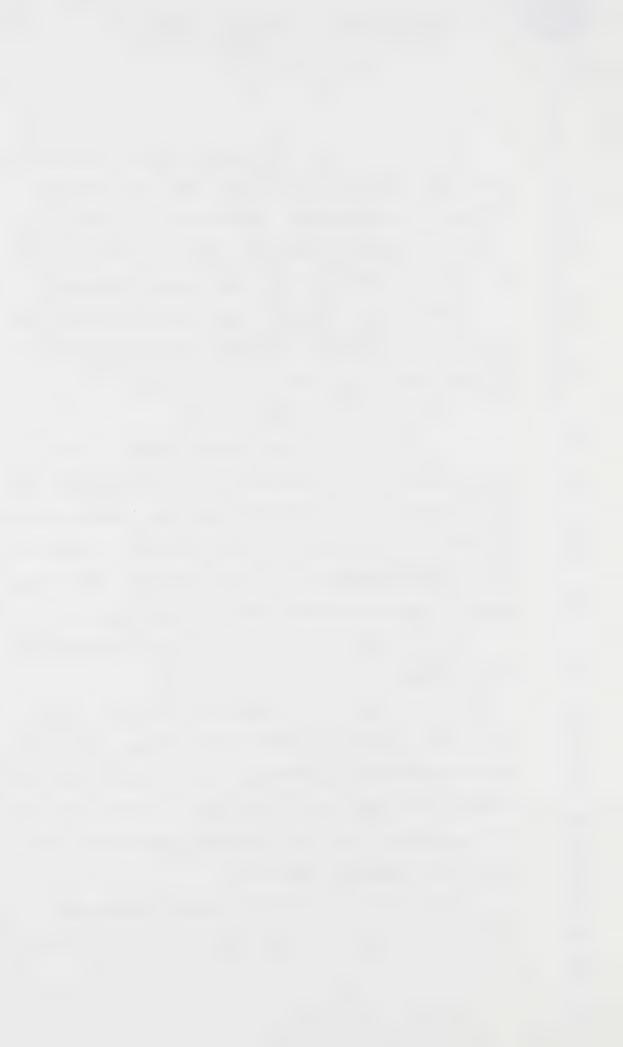
to what you did and what you didn't do?

And I read through it too, ma'am, 0. and I noticed that throughout this young baby's life at the Hospital for Sick Children your signature occurs in only one location and that is on page 14 when you signed on the Hospital for Sick Children Death Check List, is that your recollection of the chart?

I don't have any recollection of that baby.

I understand, ma'am. 0. asking you, you have looked at the chart, is it not true that the only signature that you have, the only notation that you have in here is on your completion of the Hospital for Sick Children Death Check List involving Stephanie Lombardo?

- I don't think I know that. A.
- Well, would you look at it for Q.



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me please.

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Α.

Sure.

Q. Page 14, this is the standard Hospital for Sick Children Death Check List and it is dated December 23rd, 1980 and it is the signature Mrs. P. Trayner (RN), is that your signature?

> Α. Yes.

Q. Thank you. Are you aware of anywhere else in the entire chart of this young child that your name or any of your markings appear in relation to this baby?

> Not that I am aware of. Α.

Right. Now I think that you Q. have been asked, and I am not sure whether it was by Mr. Lamek or Mr. Hunt, that you do recall that there were very few babies before Christmas when you were working with a nurse by the name of Ganassin, is that it?

> Α. Ganassin.

Ganassin, thank you. We know 0. that she has since that time married and her married name is what?

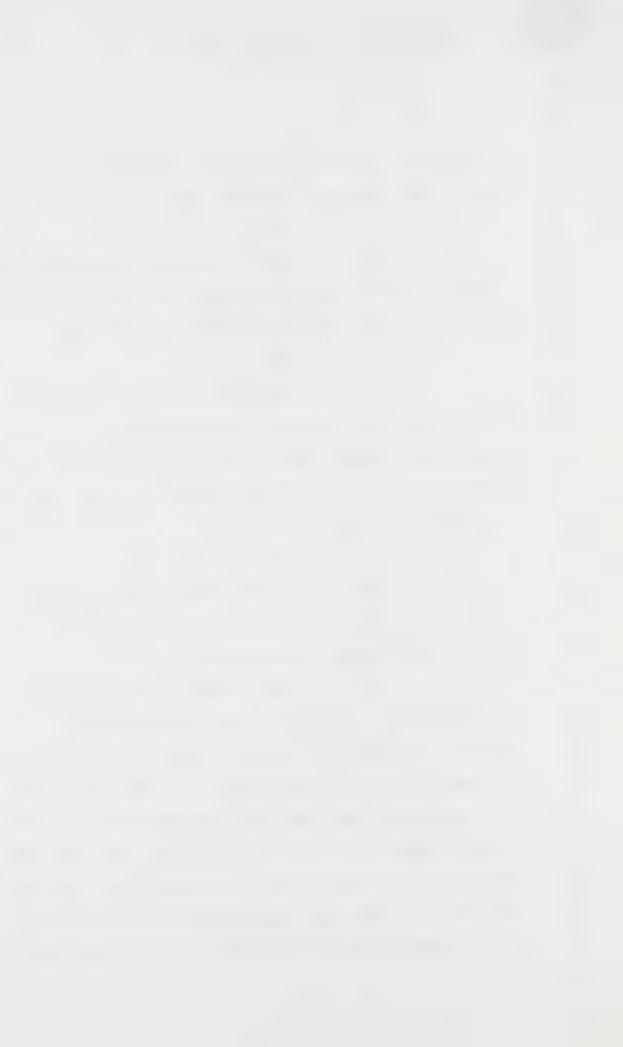
> Bouche. Α.

Q. And Nurse Ganassin was working in conjunction with you shortly before Christmas in



a very very, how shall I say it, non-busy cardiac ward at the Hospital for Sick Children that evening?

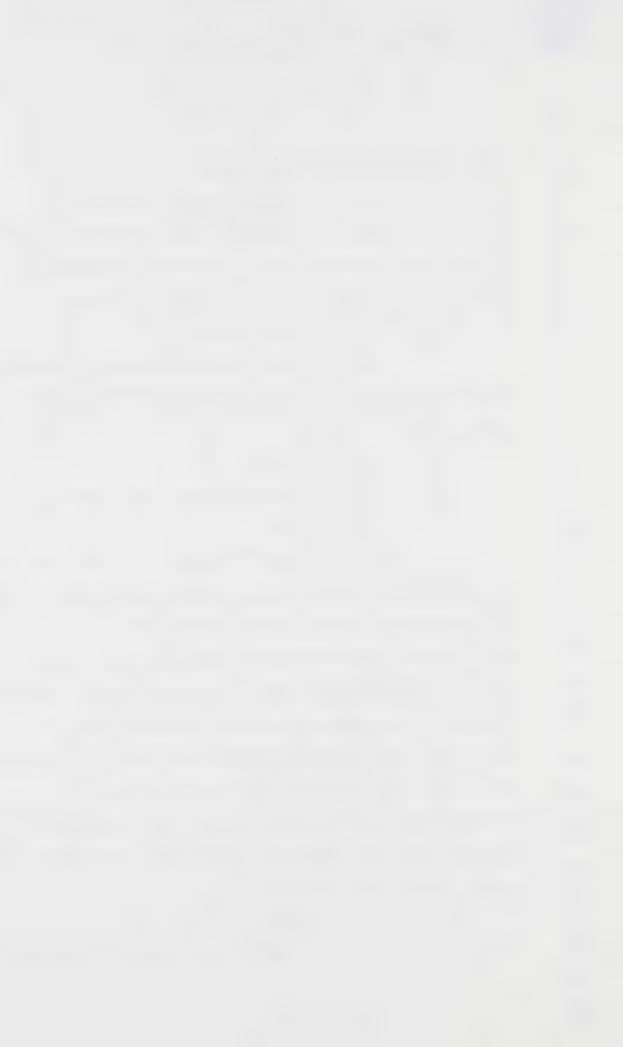
- A. Yes.
- Q. And it is your recollection that you did in fact work with her and just the two of you were on 4A, you know that from looking at the chart?
  - A. Yes.
- Q. The WIN sheets show that Baby, as Mr. Lamek has correctly pointed out to you, shows that Miss Ganassin had six babies two of which were in Room 418, and you had two babies to look after and you were also team leader?
  - A. Right.
  - Q. Is that your recollection?
- A. I don't recall that night, it is from what people have told me.
- Q. Well I want to see if I can get more to it, because I think that perhaps if anyone, let alone Mr. and Mrs. Lombardo, would like to know a little bit more about it. You are aware of course that that baby was a transfer from the ICU after having an operation, and in fact that baby was transferred to Ward 4A on, I believe it was December the 22nd, is that your recollection? Please ma'am, if you doubt me would you please look at the chart



## Trayner, cr.ex. toronto, ontario (Percival)

and tell me if that is accurate?

- A. Okay, you are correct.
- Q. And do I take it that the last nursing note in that chart is by Nurse Ganassin, is that correct, relating to this child who died?
  - A. Yes, it is.
- Q. The nursing note is on December the 23rd in the night shift the baby having died at 4:20?
  - A. Right.
  - Q. Is that your understanding?
  - A. Yes.
- Q. Well I wonder if I may, to assist the Commission and to perhaps assist your recollection of the events, I want to try to go with you, if I may, through the evidence of the only other nurse that was on 4A and she gave evidence on April 8th in Volume 27. Perhaps I can have the chart now and I will trade you with the Preliminary Hearing Transcript and I want you to follow with me that nurse's recollection of the fateful night that Stephanie Lombardo died and see if it refreshes your recollection, would you do that for me?
  - A. Sure.
  - Q. Now if I may start at page 61,



Nurse Ganassin says that she remembers the baby, at line 16, do you see that?

- A. Yes.
- Q. And at the top of page 62

she was asked: "What time did you first see Stephanie on December 22nd?

- A. When I came on around 7:30."
- O. Line 14:

"What team were you on that particular night?

- A. Myself and Phyllis Trayner.
- Q. Was Phyllis Trayner the team leader?
- A. Yes.
- Q. Why was it just two of you on the team that night?
- A. It was Christmas break and most of the patients were sent home, the well enough ones, so the load is a lot lighter.
- Q. How many patients did you look after that particular night?"

Miss Ganassin says:

"A. I had three that night." Is that your recollection?





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Α.	I	don	t	have	any.
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- Q. Thank you:
- "Q. What were your patients?
- A. I had two in 418 and one in 425. The top of page 63:
- "Q. What about Phyllis Trayner, how many patients did she have that night?
- A. I don't know."

She goes on to describe the fact that the baby was not on any drugs but was being given heparin by sage pump intravenous, do you remember that?

- A. No, I don't.
- Q. Page 68 she was asked:
- "Q. How often was this baby being fed?
- A. Every three hours.
- Q. You came on at 7:30, when would her first feeding be after you arrived?
- A. Nine o'clock.
- Q. What did you feed her?
- A. SMA or a formula, SMA 27.
- Q. How much of that would you give
- her at 9 o'clock?
- A. I think the order says an ounce





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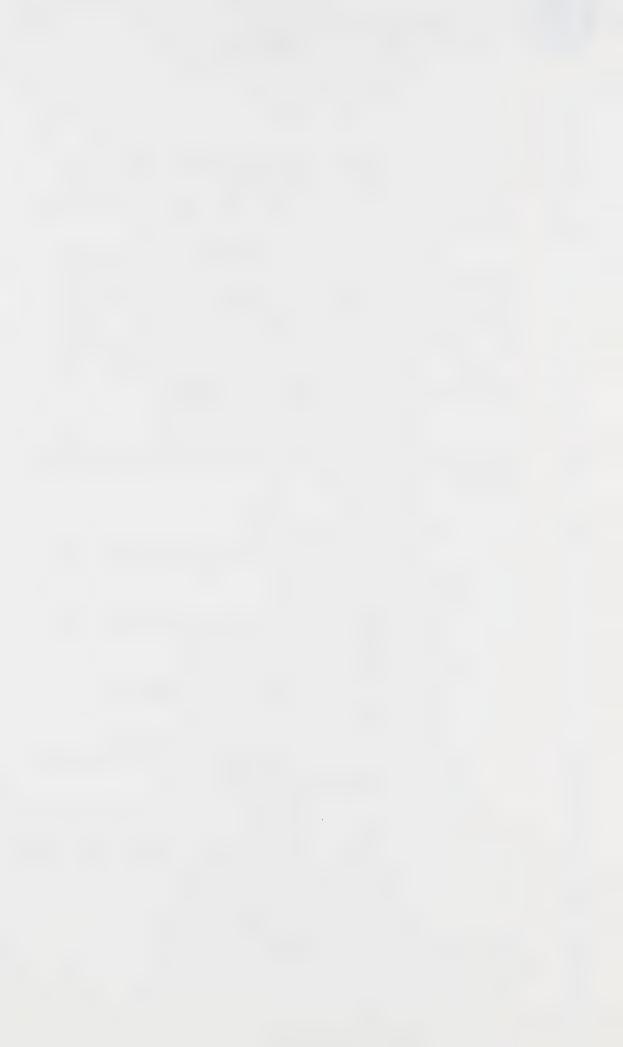
1 2 "every three hours." You remember that was in the chart, 3 you have looked at the chart? 4 Α. Yes. 5 Is that right? Q. 6 A. Yes. 7 Page 69: Q. 8 Where would that formula be 9 stored? This particular one would have 10 A. been in the refrigerator in our pantry. 11 Is that your recollection as to 12 where that type of formula would be in 13 fact stored? 14 Yes." Α. 15 The top of page 70: 16 "This particular bottle, how would you 17 know it was for this particular baby? The name would be on it, the Α. 18 baby's name." 19 Q. The top of page 70, Mrs. 20 Trayner. 21 A. Yes. 22 Q. Is that an unusual thing to 23 have a bottle of formula with the baby's name on it? 24





## Trayner, cr.ex. toronto. ontario (Percival)

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2		A.	No, it is not unusual.
3		Q.	Was that the exception more than
4	the rule?		
5		Α.	It would be hard to say.
6	There would be	maybe c	one month there where all the
7		t of the	e babies would have special
	formula, and t	hen ther	e may be times where only one
8	infant would h	ave a sp	pecial formula.
9		Q.	And there may be 10 others that
10	would be havin	g straig	tht ordinary formula, is that
11	right?		
12		Α.	Right.
13		Q.	At the bottom of page 70,
	Miss Ganassin	was aske	ed:
14		"Q.	How did the baby take the
15		formula	at 9 o'clock?
16		Α.	I fed her by mouth.
17		Q.	Yes.
18		Q.	I remember her she was doing
19	,	well and	she fed well."
20		Q	The top of page 71:
		"Q.	That was 9 o'clock, when would
21		you have	fed her again?
22		Α.	At midnight.
23		Q.	Yes.
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"A.	She	had	and	othei	r feed	and	l too	ok
it well.	•							
Q.	When	wou	ıld	you	have	fed	her	

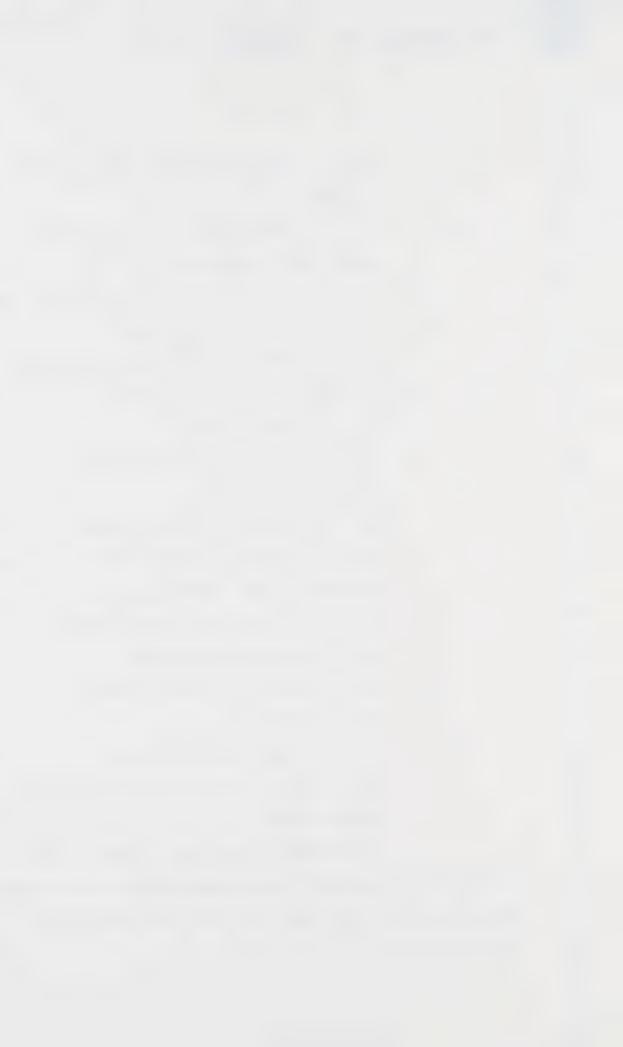
- A. At 3 o'clock, she took that well."

  At the bottom of the page:
- "Q. Did you leave the room after you fed her, do you recall?
- A. Yes, I did.

again after midnight?

- Q. Any particular reason for leaving the room?
- A. I recall having a friend visiting me from another floor, we were sitting in the nursing station.
- Q. Do you know who the friend was?
- A. Yes, Paula Griffin.
- Q. She is a nurse is she?
- A. Yes.
- Q. Where does she work?
- A. On the orthopaedic floor, the sixth floor."

I am going to ask you, ma'am, do you remember Paula Griffin coming down to the fourth floor from the sixth floor and visiting that night with Miss Ganassin?



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# Trayner, cr.ex. (Percival)

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2	Α.	No, I don't.
3	Q.	Do you know who Paula Griffin
4	is?	
5	Α.	No, I don't.
	Q.	None of that refreshes your
6	recollection of that	night?
7	Α.	No.
8	"Q.	Later on when you were in the
9	nursing	station did you know where
10	Phyllis	Trayner was?
11	Α.	No.
12	Q.	Had you seen Phyllis in Room
13	418 bef	ore you went to the nursing
	station	and talked to your friend
14	Griffin	?
15	Α.	No, I didn't see her then."
16	Q.	The middle of page 73:
17	"Q.	You were talking to your friend
18	and did	something happen when you were
19	there?	
20		Phyllis came out to me and told
	me to co	ome quick. We went to the room
21		baby was in distress.
22	Q.	That is the Lombardo baby?
23	Α.	Mm-mm, she said to "come quick"
24	Yes, I	remember that.





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## Trayner, cr.ex. (Percival)

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"Q. Did you go into Room 418?

A. Oh yes.

Q. What did you find when you got in there?

A. The baby was quite blue and Phyllis had me listen to the apex and it was irregular at the time."

Q. Do you remember that having discovered this baby with the apex being irregular and being quite blue, two days before Christmas?

A. No, I don't.

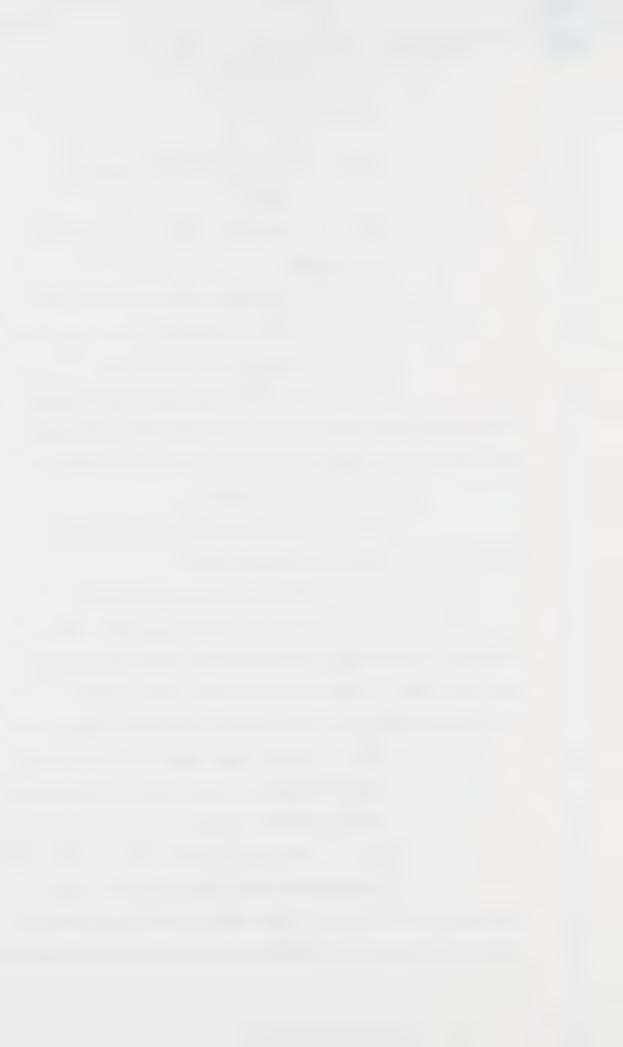
Q. You have no recollection whatsoever of that morning at all?

A. No, I'm sorry, I don't.

Q. We have the nurse who was in charge of that baby who said that the baby was doing well and fed it last at 3 o'clock, and then at 3:30 apparently you discovered, the top of page 74:

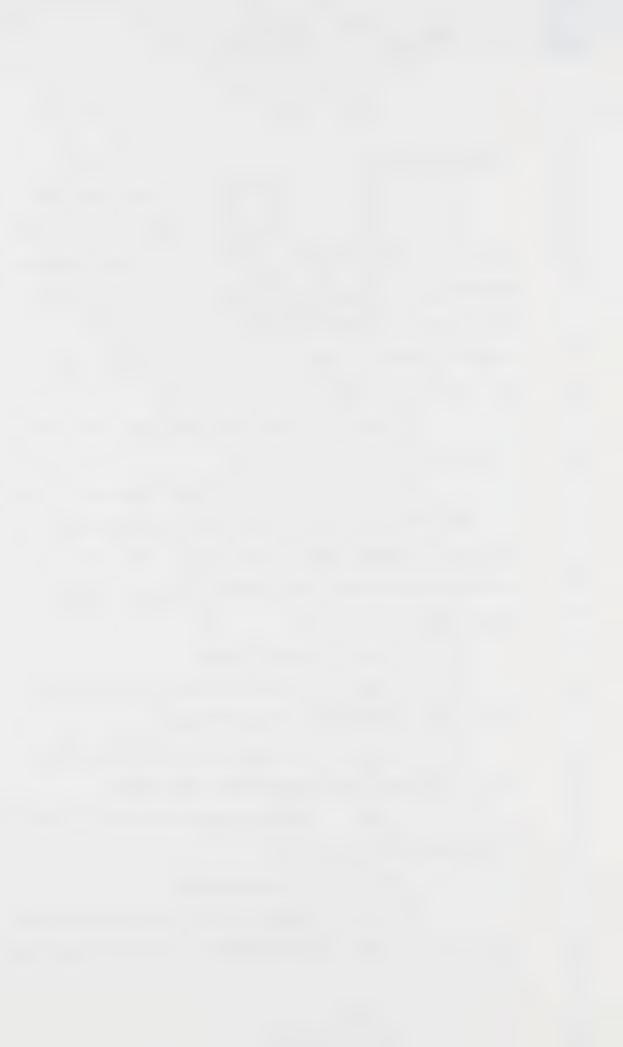
"Q. What time would it have been that Phyllis called you into the room. Do you recall that?

A. It was around 3:30 at that time. Do you have any recollection, have I assisted you at all in refreshing your recollection about the nights of December 22nd/23rd when Stephanie



Lombardo died?

- A. No, I have no recollection.
- Q. The only reason you would be in 418 I suggest is as team leader you were making rounds and you found this baby blue, while your coworker was sitting talking to a friend at the nursing station, that is what the evidence says, do you agree with me?
- A. That would be one reason why I would be in.
- Q. Well, if that happened wouldn't you say "Well, where were you Gloria, why weren't you there looking after that child. Why are you out here chatting with your friend", do you remember saying that to her?
  - A. No, I don't.
- Q. Well the baby died at about 4 o'clock, is that your recollection?
- A. It would be from the chart, I have no clear recollection of that baby.
- Q. Well you participated in the resuscitation?
  - A. I probably did.
- Q. Well you were the team leader on 4A and you sure would be there, front row and centre



Trayner, cr.ex. (Percival)

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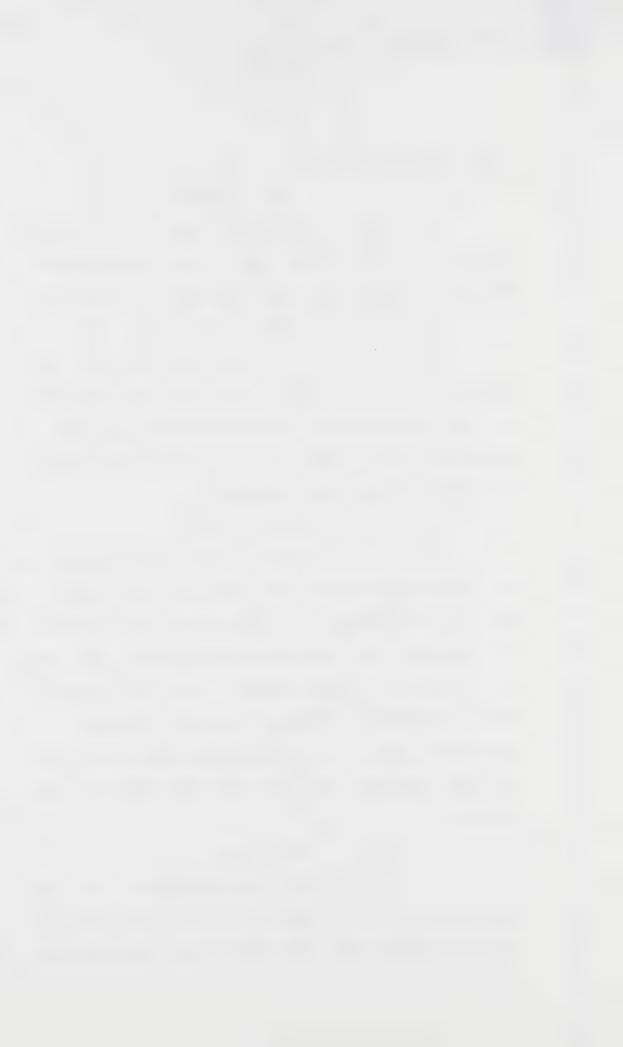
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would you not, ma'am?

- A. Yes, I would.
- 0. And do I take it if you were there and you called the Code 25 you participated in the resuscitation and again it was unsuccessful?
  - A. Yes, it was.
- 0. And that was a baby who was nine days old, who died two days before Christmas and you are saying to the Commissioner you have absolutely and totally no recollection whatsoever of the night that that occurred?
  - That's right. A.
- Q. We are only up to December at that particular point, Mrs. Trayner, and by that time, and I am not going to go through it, and I suppose I should; at that point you have gone through one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, fifteen resuscitations, all of which were unsuccessful and you can't remember this one, is that what you are saying?
  - Α. Yes, I am.
- Q. Do I take it, and I will put the same question to you as I put to Miss Nelles, is it a question that one baby's death merges with



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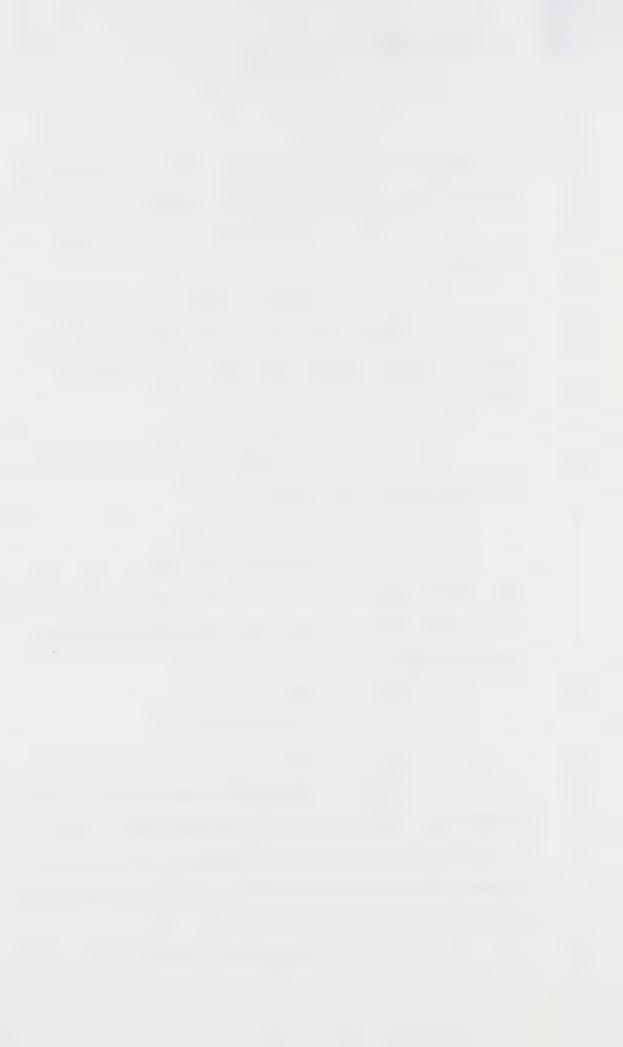
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With some of the children, yes, Α. it has. Well it certainly did with Q.

the next one, with the next one, with the next one,

with the next one, is that what happens in your mind?

- Stephanie Lombardo you will agree with me, because you were there without any question according to the chart.
  - Α. Yes.
- Q. And you have no reason to doubt the evidence of Miss Ganassin?
  - Α. No, I don't.
- 0. Now you were aware, were you not, ma'am, that Stephanie Lombardo was buried without the benefit of an autopsy and you signed the chart, you know that?
  - Α. Yes.
  - Q. You saw that?
  - Α. Yes.
- And during the course of the 0. preliminary hearing Stephanie Lombardo, as a result of the Order of the Attorney General, that body was exhumed, you were aware of that fact in February were you not?
  - The police told me, yes. Α.





Q. And you were aware of that when you gave evidence in the preliminary?

A. Yes.

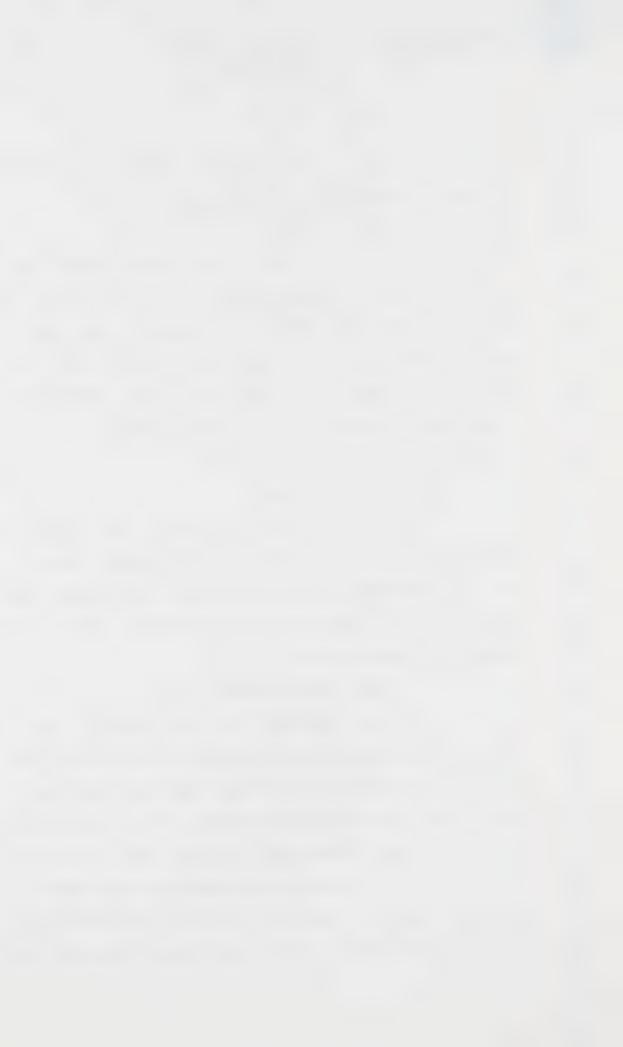
Q. And you were aware before you gave evidence at the preliminary when being asked for the first time about Stephanie Lombardo, that that baby who had never been prescribed digoxin, who was nine days old and on no medication, when exhumed was chock full of digoxin. You knew that when you gave that evidence at the preliminary?

A. Yes.

Q. And do I take it that under the circumstances that the fact that you knew that and that you knew that you were the one, one of two people who were there under the circumstances -- can I start again, Mr. Commissioner?

THE COMMISSIONER: Yes.

MR. PERCIVAL: Q. Do I take it that you are suggesting to the Commissioner the fact that you knew that evidence, and you knew that you were one of two nurses who were looking after that baby, caused you some concern and the fact that you didn't really want to remember what happened to Stephanie Lombardo, because you were concerned that maybe you might be implicated, is that the reason that you had



## Trayner, cr.ex. (Percival)

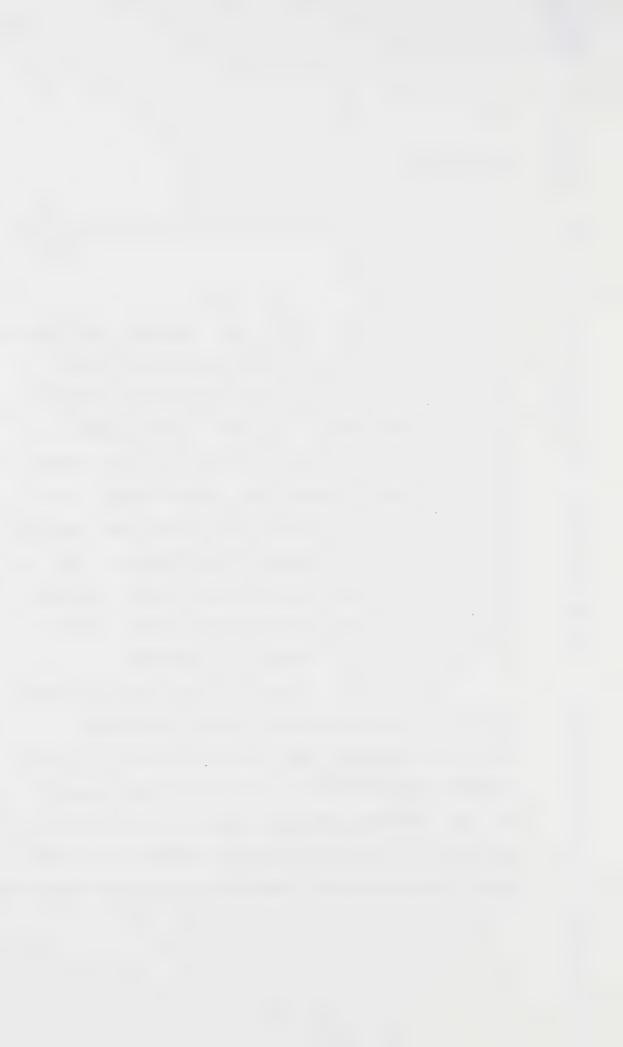
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the difficulty?

- A. No, it is not.
- Q. You don't have a mental block

because of that?

- A. No, I don't.
- Q. Now I am struck by your complete and total absence of recollection of the events involving the deaths of Baby Lombardo on December the 23rd, 1980, when I find not 22 days later we start talking in terms of the death of Baby Estrella. You have given evidence, and given evidence, and given evidence, and given evidence, page after page about what happened with respect to the death of Baby Estrella, and you seem to have a very clear memory of what happened with respect to that baby, do you agree with me?
  - A. What I can remember is clear.
- Q. Yes. You have a clear memory though of a baby who died 22 days later after Stephanie Lombardo. Can you tell me why is it that Stephanie Lombardo is blocked out of your memory, at least according to your recollection you had none, and why is it that you remember as much as you do about Janice Estrella, can you give me any indication?



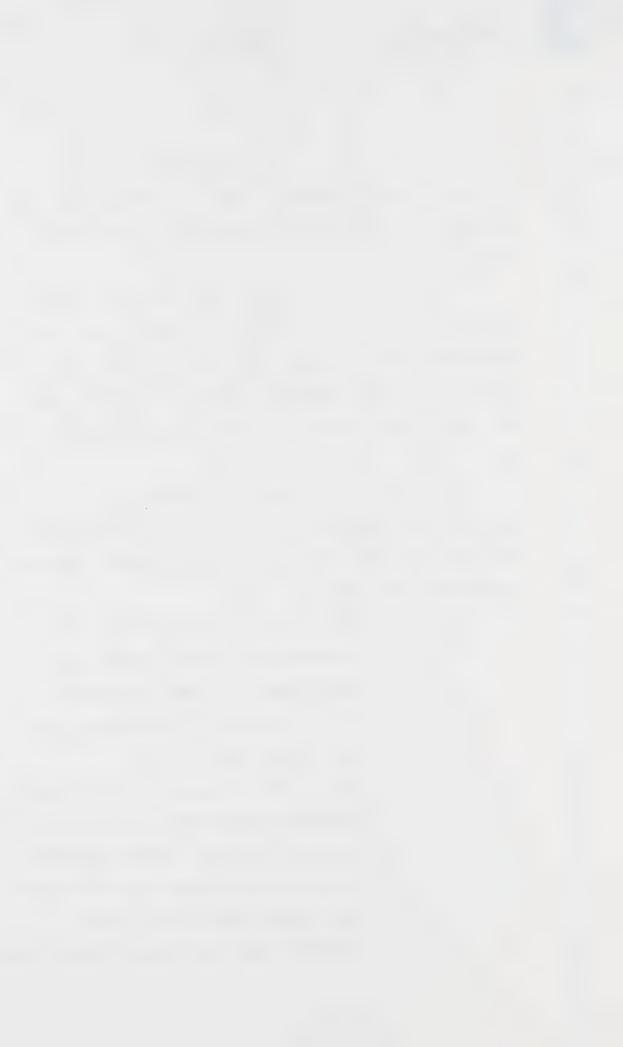
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HH EMTrc

	A. Ir	eally don't	remember a
lot about Janice	Estrella.	What I rem	ember most about
that baby is tha	t Sui Scott	called out	for help at
3:30 I thought.			

- Q. Well, the question I have just put to you is not a surprising question. You were asked this on a previous occasion, were you not? In fact at the preliminary hearing, Volume 29, page 31. Mr. Wiley asked you at page 30, Volume 29 page 30:
- "Q. Can you explain..."

  This was back on April 14, 1982, just slightly over two years ago, Mrs. Trayner, you were asked the same question by Mr. Wiley:
  - "Q. Can you explain why you can't remember what went on that night with respect to Baby Lombardo?"
  - "A. Because it is almost a year and a half ago."
  - "Q. Well, I appreciate that but I am just thinking that in your earlier evidence you gave rather extensive evidence with respect to the events surrounding the death of Baby Estrella which was some 20 days later."



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"A. Hm-mm.'
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"Ω. Was Baby Estrella's death more unusual than Baby Lombardo's?"
"A. Hm-mm.

There's some children that you remember more and more details of the night."

I remember speaking to the Estrellas that night, hm-mm, the night before she died. I honestly don't remember the Lombardos."

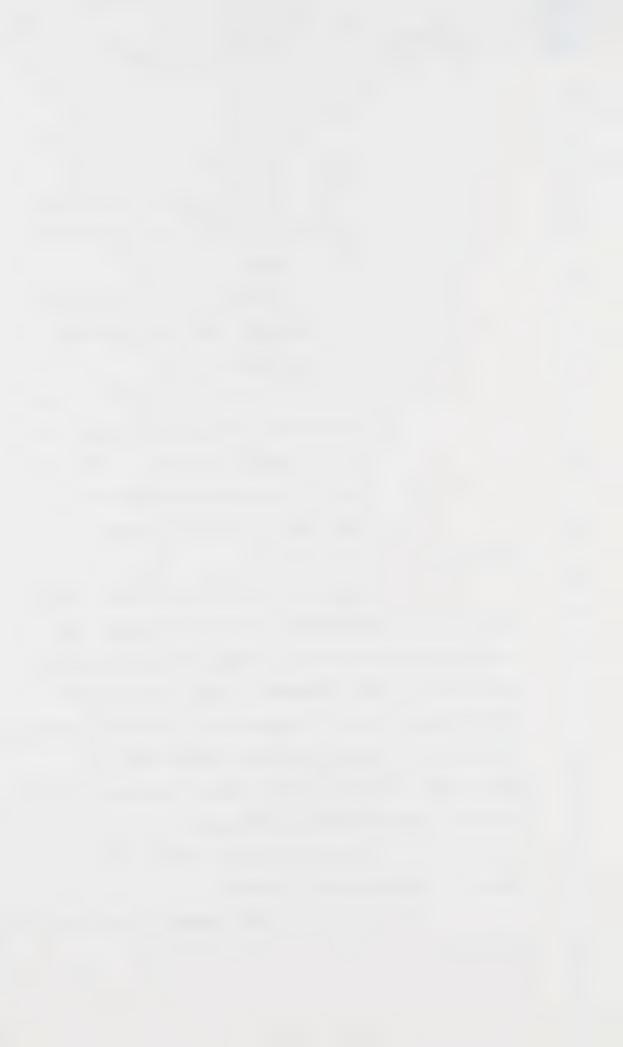
Now that was your response to

Mr. Wiley.

Now do I take it that your recollection, and I was struck by your evidence a few I guess it was last week - that whenever you were
asked about do you remember a baby, you started
talking about, well, I remember Mr. and Mrs. so and so,
the parents. That's the first thing that you
remembered. It is as if you didn't have any
conscious recollection of the baby.

Do you remember saying that on a series of answers to Mr. Lamek?

A. I can remember saying about the parents.



HH3

Q. Well, what concerns me is that
that seems to be the only thing that refreshes your
recollection, that you are struck by did I see the
parents after the baby's death and therefore that is
why I will remember it. If I didn't see the parents,
then I have no reason to remember. It's as if the
baby was there and gone and it is forgotten.

Do you agree with me that that's the response that you seem to have?

A. No, I don't think that's fair.

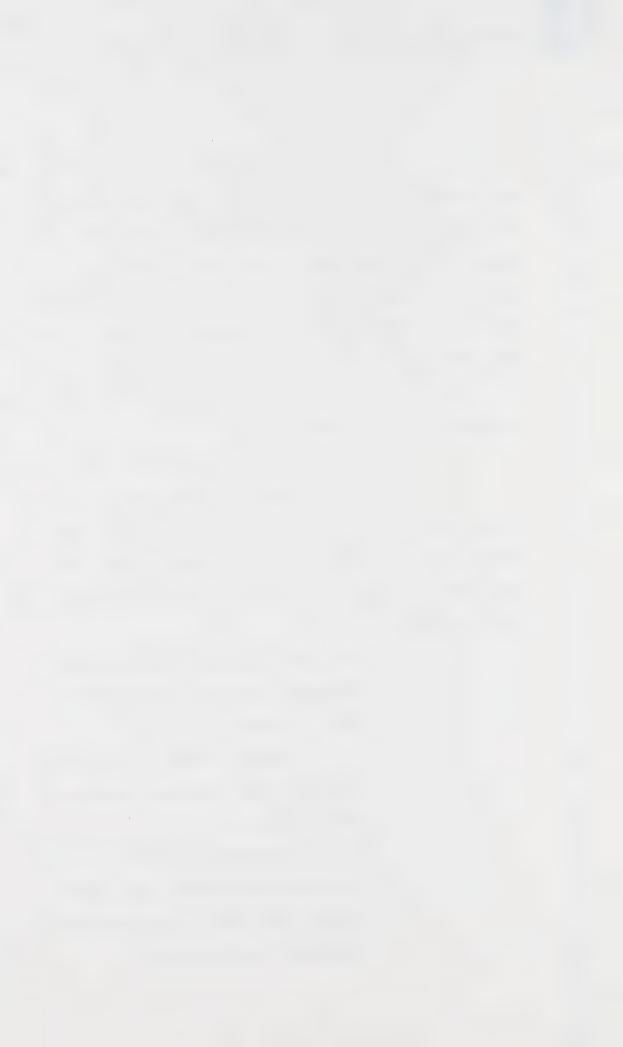
Q. Well, ma'am, that's going to be for some other persons aside from me and thee to end up making a judgment on, but every time you recalled, at least to Mr. Wiley - you were asked the same question:

"Was Baby Estrella's death more unusual than Baby Lombardo's?"

"A. Hm-mm."

"There's some children you remember more and more details of the night;"

"I remember speaking to the Estrellas that night, the night before she died. I honestly don't remember the Lombardos."



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Lamek.

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You don't talk about the baby, you talk about the parents.

Do you want me to point out with respect to the parents where you have problems -- where the same response came in the course of Volume 130 in response to Mr. Lamek's questions? Do you want me to read them to you?

A. I know what I said to Mr.

Q. Well, all right. Let's start through them because at page 324 you were talking about Fazic --

THE COMMISSIONER: Of which?

MR. PERCIVAL: I'm sorry, Volume

Q. "Q. Anything else about

Frank Fazio? Were the nurses on the

floor upset about the death of this

child?"

"A. I remember being upset for the parents."

"Q. For the parents?"

"A. Yes."

"Q. Why particularly for the parents of Frank Fazio?"



	1	
нн5	2	"A. Because the parents were fin
	3	cousins"
	4	And then you went on with your explanation.
	5	Do you remember saying that?
	6	A. Yes.
		Q. Baby Thomas, page 331, and
	7	you gave very, very skimpy evidence about Baby Thoma
	8	that died on the ward:
	9	"Q. Other than this vague recol-
	10	lection of seeing the child with he
	11	mother, I take it that was the
	12	evening before she died, the evening
	13	of the start of a long night shift?
	14	"A. Right."
		" $\Omega$ . You have no other recollecti
	15	"A. No."
	16	"Q. Or of the arrest itself?"
	17	"A. No, I don't."
	18	Baby Warner, page 334. You were
	19	asked about Baby Warner:
	20	"A. And that's about all until
	21	after her arrest; and I can remembe
	22	speaking with the parents after the
	23	baby had died."  And this is where Mr. Lampk said the same thing as I
	24	And this is where Mr. Lamek said the same thing as I
	21	

1204 Trayner cr.ex. (Percival) ents were first on. that? ge 331, and it Baby Thomas vague recolhild with her was the , the evening night shift?" r recollection?" itself?" You were all until can remember ts after the



HH6

am saying to you:

"Q. Mrs. Trayner, believe me I don't mean to be critical, but you haven't told me very much about the baby."

"A. I don't recall much about the baby."

"Q. Your recollection is of dealing with the parents when you went to collect the child in the emergency department and brought them up to the floor with the child?"

"A. Yes."

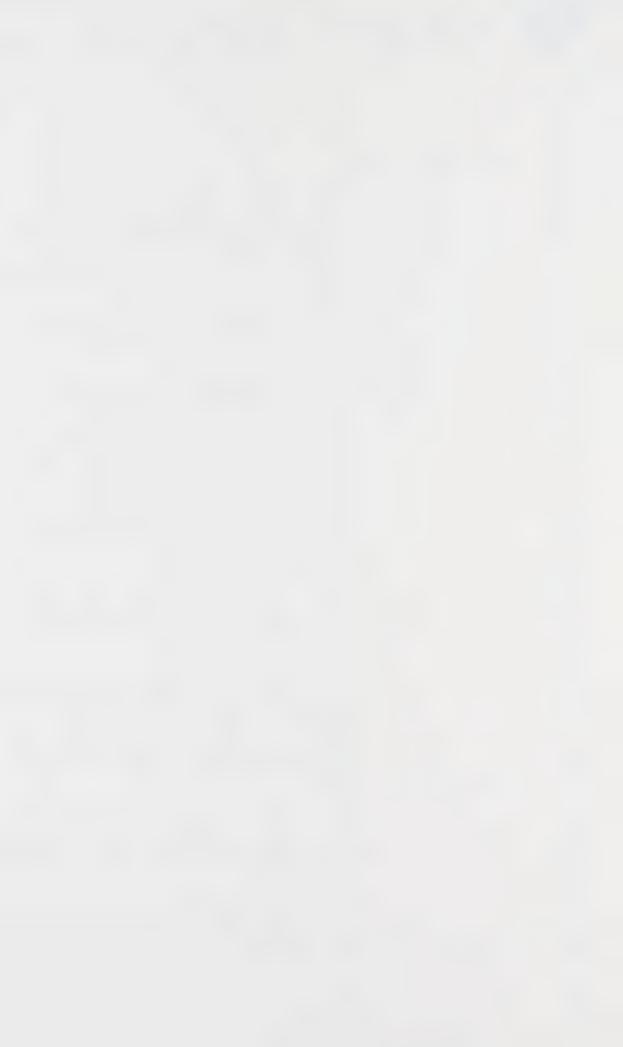
"Q. And then dealing with them (the parents) after the arrest?"

"A. Yes."

"Q. But as to Baby Colleen Warner herself I take it from that that you have essentially no recollection of her?"

"A. No. I remember the parents again were very upset that the child was sick."

"Q. You don't recall her condition and the course that she followed



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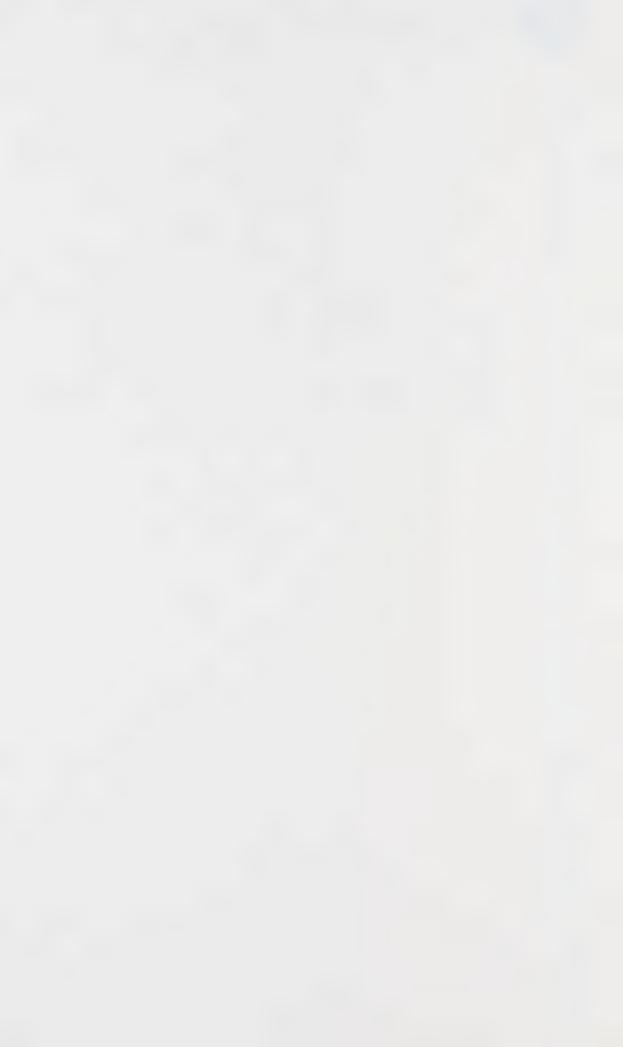
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during your shift or anything of that sort?"

"A. No, I don't."

Now, ma'am, again I can go through it. There are about four other examples in that same volume. Do you not agree with me that when you are being asked about these babies you are being asked about the babies, not about the babies' parents? You weren't misled by Mr. Lamek's questions?



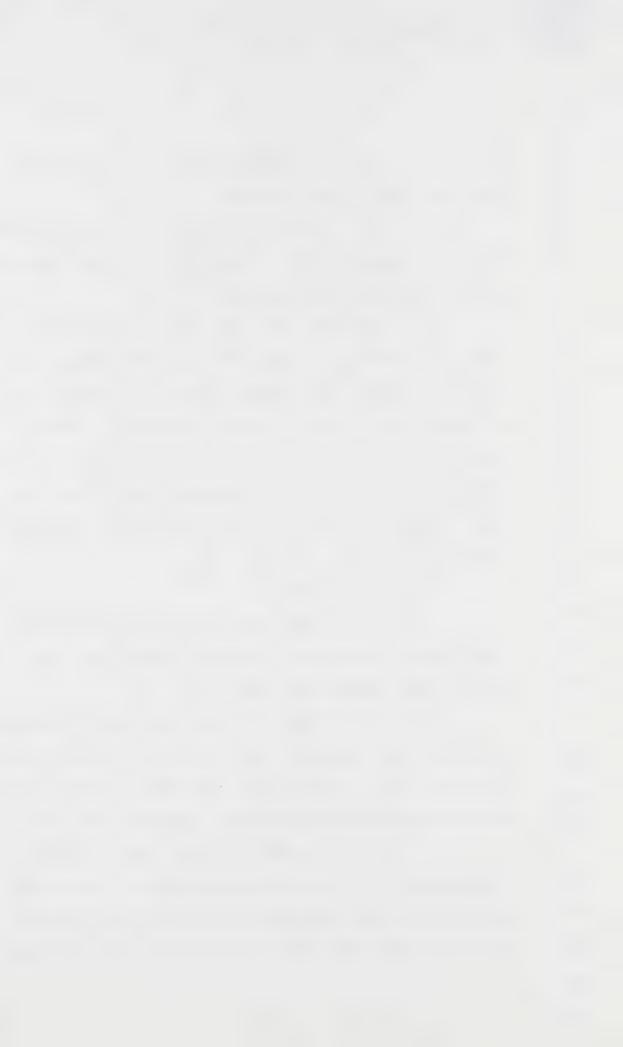
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		Α.			I understand	it	to	MMC 4MID	you	are
asking	me	what	I	can	remember.					

Q. Well the purpose of the exercise in this Commission, Mrs. Trayner, is to find how and by what means the babies died.

Now when you are asked guestions about that we want to know what you know about the events preceding the babies' deaths, and when you are asked about those you have singularly little detail to give us. Now what I am saying to you, when you are asked about them you always come back well, I spoke to the parents, that is why I remember something.

- A. Yes.
- Q. You never talked about the baby. That doesn't strike you right now, does it? That doesn't seem unusual to you?
- A. Well, I think you have to understand that with baby Estrella I was questioned by the police in May or June I think about the baby. I wasn't even approached by the police about Lombardo until '83 -
- Q. Ma'am, I am not talking about Lombardo now. We are on to about five or six other babies where you started talking about the parents not about the baby, and I want you to know do you



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not think that is an unusual response? If you don't think it is an unusual response then I will pass on to another subject.

A. No, I don't think it is unusual.

MR. PERCIVAL: Maybe this would be

a useful time, Mr. Commissioner.

THE COMMISSIONER: Yes. All right.

Well I think we will take a poll now.

I think that would be a good idea. How long do you think you will be, Mr. Percival?

MR. PERCIVAL: I would think I will be all day tomorrow, Mr. Commissioner.

THE COMMISSIONER: I think I had better carry on then because it may make a difference.

Mr. Roland?

MR. ROLAND: I won't be very long.

Maybe half an hour, an hour.

THE COMMISSIONER: Miss Jackman - no,

sorry, Miss Symes?

MS. SYMES: Mr. Commissioner, I probably will be less than an hour. I am not available on Friday though. I have already asked my friends to pass over -

THE COMMISSIONER: Well it is obvious we are going into next week, and we could certainly



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sort you out. Miss Jackman?

MS. JACKMAN: Fifteen minutes to half an hour.

THE COMMISSIONER: Mr. Olah?

MR. OLAH: I would be about an hour,

sir.

THE COMMISSIONER: Mr. Labow?

MR. LABOW: I will be about ninety minutes, Mr. Commissioner, but I also can't be here

on Friday.

THE COMMISSIONER: Are there any other parents? Oh, yes, Mr. Tobias.

MR. TOBIAS: About an hour, Mr.

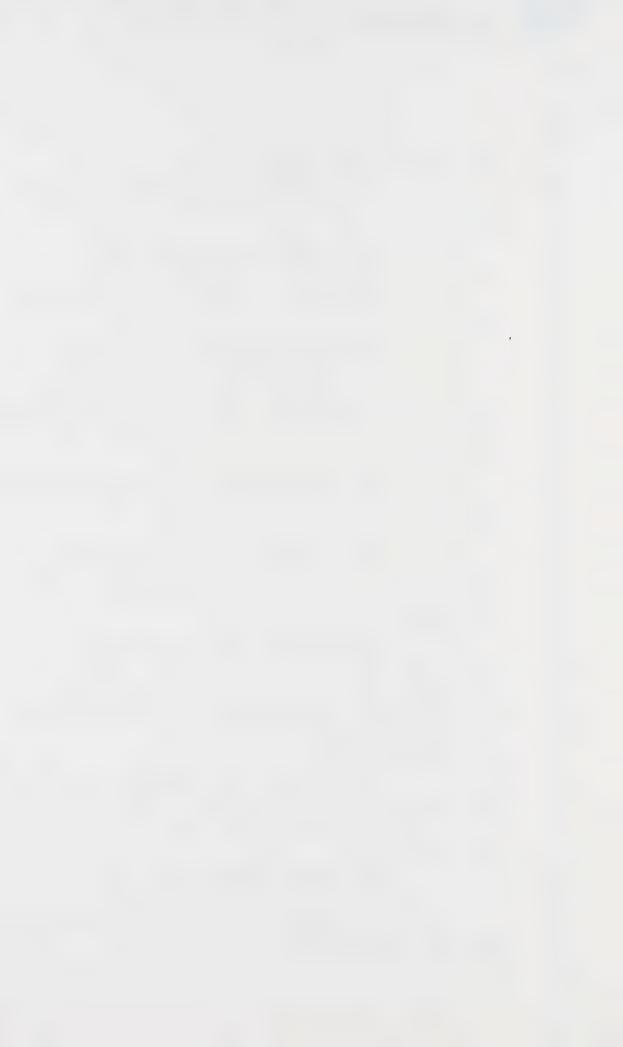
Commissioner. And I can't be here Friday either so I would want to go on on Monday.

THE COMMISSIONER: Yes. Well, I think we are all right. Does anybody else think we are not all right? I am thinking of completing Monday and Tuesday, that's all.

MS. JACKMAN: Mr. Commissioner, I am not sure if Grant Knazan my partner can be here Friday, but I can't.

THE COMMISSIONER: You can?

MS. JACKMAN: No, I can't, and I'm not sure that he can either.



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THE COMMISSIONER: This seems to be quite a conspiracy against sitting on Friday. I am not suggesting that there is a credibility problem with any of the Counsel.

MR. LAMEK: I did the same sort of exercise that you have just done. With respect, it seems to me even if we do not sit on Friday we will finish Mrs. Trayner by the end of the day on Tuesday and Dr. Kauffman, as you know, is coming in on Wednesday. I think the timing will fit even without Friday, sir.

THE COMMISSIONER: Yes. All right. We will sit tomorrow.

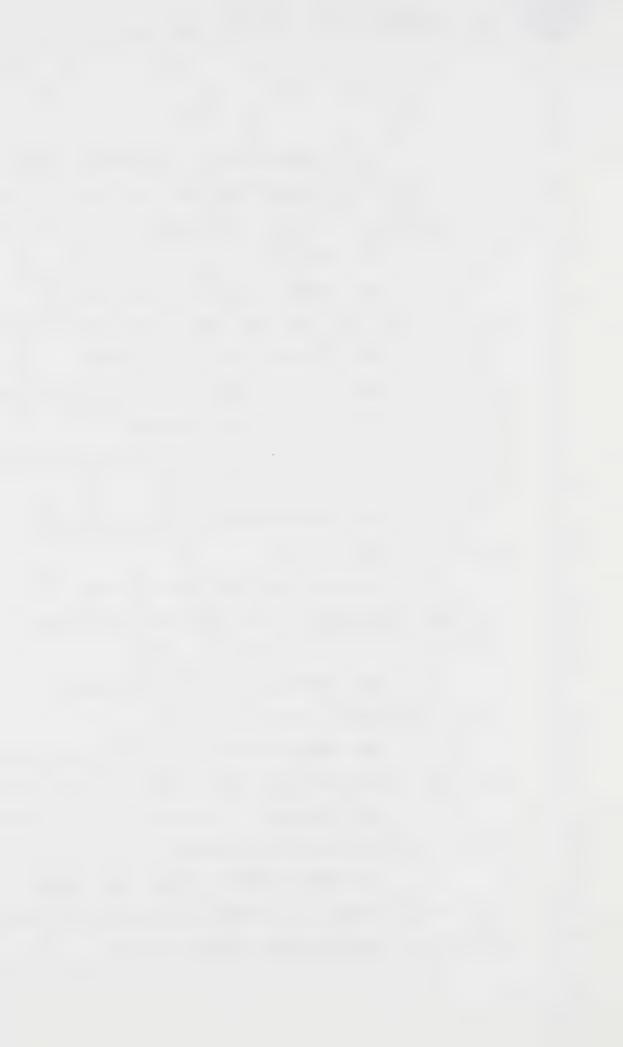
Is there any merit now - so that you can finish tomorrow is there any merit in coming in at 9:30?

MR. PERCIVAL: I would be pleased to come in at 9:30 if you are, sir.

THE COMMISSIONER: I'm not that pleased, but I will come in at 9:30 if you think it will help.

MR. PERCIVAL: I think it will. I will stand a better chance of finishing.

THE COMMISSIONER: Yes. All right. think we will make it - I better ask you, Mrs. Trayner, have you any problem about 9:30 tomorrow?



THE WITNESS: No, I don't.

THE COMMISSIONER: All right. Then

9:30 tomorrow morning.

--- (Whereupon the hearing adjourned at 4:35 p.m. until Thursday, April 26th, 1984, at 9:30 a.m.)



